

SESSION LAWS
OF
HAWAII
PASSED BY THE
TWELFTH STATE LEGISLATURE

1984
REGULAR SESSION

Convened on Wednesday, January 18
and
Adjourned sine die on Thursday, April 19

FIRST SPECIAL SESSION

Convened on Monday, July 9
and
Adjourned sine die on Friday, July 13

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Honolulu, Hawaii

AUTHORITY

Section 23G-13, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws of the Regular and First Special Sessions of 1984. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Samuel B. K. Chang
Revisor of Statutes

Honolulu, Hawaii
July 16, 1984

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**Session Laws of Hawaii
Passed By The
Twelfth State Legislature
Regular Session
1984**

ACT 1

S.B. NO. 1192

A Bill for an Act Relating to the Hawaii Crime Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 843-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) [For a twelve-month period commencing July 1, 1980, and ending on June 30, 1981, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor, for administrative purposes only.]

Commencing on July 1, 1981, there is established within the office of the lieutenant governor, for administrative purposes only, the Hawaii crime commission. This commission shall have its existence terminated, if not renewed by the legislature, on [January 30, 1984.] June 30, 1984.

(b) The commission shall be composed of nine members, all of whom shall be appointed by the governor, with the advice and consent of the senate. The term for each member shall be [from July 1, 1981, through January 30, 1984.] for four years. The governor shall appoint a chairman with the advice and consent of the senate. All vacancies on the commission shall be filled for the unexpired term by the governor, with the senate's advice and consent. A vacancy in the chairman's position shall be filled by the governor in the same manner as an initial appointment. The commission, by a two-thirds vote, may initiate the removal or suspension of the chairman from office, but only for neglect of duty, misconduct, or disability. The governor shall act upon the vote of the commission to remove or suspend the chairman. The chairman shall have the power to vote only in the event of a tie vote.”

ACT 2

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved January 30, 1984.)

ACT 2

H.B. NO. 1638-84

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,250,476, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1985, including but not limited to the 1984 regular session, Twelfth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1984 and 1985 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,921,541, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1985, including but not limited to the 1984 regular session, Twelfth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1984 and 1985 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1984 and 1985 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1984 and 1985 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 16, 1985, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 16, 1985.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general

statute. Until otherwise prescribed by law, the expenses of such member shall be \$65 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,629,742 to the office of the legislative auditor for the following expenses: (a) the sum of \$1,322,759, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1984-1985; (b) the sum of \$156,983, or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission during the fiscal year 1984-1985; (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1984-1985, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,551,149, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1984-1985, including equipment relating to computer systems programming and operations.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$368,674, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1984-1985.

SECTION 9. As of the close of business on June 30, 1985, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved January 31, 1984.)

ACT 3

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate or authorize, as the case may be, funds for the payment of collective bargaining cost items in the agreement reached pursuant to the decision of an arbitration panel, with the exclusive representative of collective bargaining unit 11 for the 1983-85 fiscal biennium; and to appropriate or authorize, as the case may be, funds for the payment of collective bargaining cost items negotiated with the various other collective bargaining units representing public officers and employees for the fiscal biennium 1983-1985. The intent of this Act is to provide the necessary fund authorizations and appropriations to allow for the immediate implementation of negotiated pay raises, as stipulated in the agreements, on April 1, 1984, and January 1, 1985, for bargaining units 1, 2, 3, 4, 7, 8, 9, 10, and 13; on adjusted, equivalent dates for educational units, bargaining units 5 and 6, within the department of education; and on July 1, 1984, for bargaining unit 11, firefighters.

PART II

SECTION 3. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1983-85 all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
General Funds	\$3,982,831	\$10,802,663
Special Funds	525,965	2,019,973
Federal Funds	311,643	1,103,203
Other Funds	33,835	164,427

SECTION 4. Funds appropriated or authorized by this Part shall be allotted by the director of finance in the respective fiscal year for the purposes of this Part.

PART III

SECTION 5. Notwithstanding section 5, Act 291, Session Laws of Hawaii 1983, Judiciary Appropriations Act of 1983, the chief justice is authorized to utilize an appropriate portion of such sums included in the respective program appropriations in Part II of Act 291, Session Laws of Hawaii 1983, to implement the collective bargaining agreements negotiated for the 1983-85 fiscal biennium.

PART IV

SECTION 6. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 7. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1984, and June 30, 1985, of the respective fiscal years shall lapse as of those dates.

SECTION 8. This Act shall take effect upon its approval.

(Approved March 31, 1984.)

ACT 4

H.B. NO. 223

A Bill for an Act Relating to State Officers and Employees Excluded from Collective Bargaining and Making Appropriations and Other Adjustments.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate or authorize funds to provide salary adjustments to officers and employees excluded from bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 13, officers and employees in the excluded managerial compensation plan, and officers and employees of the office of Hawaiian affairs. The salary adjustments for excluded officers and employees are the same as those contractually provided to their included counterparts. The intent of this Act is to permit immediate implementation of a pay raise on April

ACT 4

1, 1984 and January 1, 1985, for personnel excluded from bargaining units 1, 2, 3, 4, 7, 8, 9, 10, and 13; and on equivalent, later dates for personnel excluded from bargaining units 5 and 6.

PART II

SECTION 3. There is appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary to fund for the fiscal biennium 1983-85 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
General Funds	\$435,845	\$1,729,467
Special Funds	62,887	301,032
Federal Funds	23,316	110,679
Other Funds	6,962	37,082

SECTION 4. Funds appropriated or authorized by this Part shall be expended by the director of finance in the respective fiscal year for the purposes of this Part.

PART III

SECTION 5. Notwithstanding section 5, Act 291, Session Laws of Hawaii 1983, Judiciary Appropriations Act of 1983, the chief justice is authorized to utilize an appropriate portion of such sums included in the respective program appropriations in Part II of Act 291, Session Laws of Hawaii 1983, to implement the pay adjustments authorized for the 1983-85 fiscal biennium for officers and employees excluded from collective bargaining.

PART IV

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums, or so much thereof as may be necessary to fund for the fiscal biennium 1983-85 the salary increases for officers and employees in those agencies who are excluded from collective bargaining:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
Ethics Commission	\$ 414	\$ 956
Office of the Legislative Reference Bureau	4,485	7,824

SECTION 7. The sums appropriated by this Part shall be expended by the respective heads of the legislative agencies.

PART V

SECTION 8. There is appropriated from the sources of funding indicated below the following sums, or so much thereof as may be necessary for fiscal biennium 1983-1985, to fund the salary increases for officers and employees of the office of Hawaiian affairs who are excluded from collective bargaining:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
General Funds	\$2,449	\$13,123
Special Funds	2,449	13,123

SECTION 9. The sums appropriated by this Part shall be expended by the office of Hawaiian affairs for the purposes of this Part.

PART VI

SECTION 10. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 11. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1984 and June 30, 1985 of the respective fiscal years shall lapse as of those dates.

SECTION 12. This Act shall take effect upon its approval.

(Approved April 3, 1984.)

ACT 5

SECTION 1. Transfer or lease to the county of Hawaii. All functions and facilities pertaining to the operation and maintenance of Hilo Hospital, including all costs of operating and maintaining Hilo Hospital, except those functions relating to other hospitals, heretofore performed and assumed by the State, pursuant to Act 265, Session Laws of Hawaii 1969, as amended, may hereafter be transferred or leased, as the case may be, to the county of Hawaii, provided that the county of Hawaii shall by ordinance, accept transfer of functions and assume financial responsibility for the operation and maintenance of Hilo Hospital.

SECTION 2. Plan of transfer or lease. Upon the voluntary acceptance of the transfer or lease and related conditions specified in section 1 above, the governor and the mayor of the county of Hawaii shall develop a plan for the orderly transfer of the below-listed items, and the governor shall by executive order effectuate the transfer and declare the effective date thereof in accordance with the plan:

- (1) All employees of Hilo Hospital; provided that all state civil service personnel transferred shall acquire county civil service status without loss of salary, seniority, prior service credits, vacation, sick leave, or other employee benefits or privileges as a consequence of such transfer and any personnel exempted from civil service and transferred shall continue to retain the exempt status and shall not be appointed to a civil service position because of the transfer; provided further that subsequent changes in status may be made pursuant to the personnel laws of the county of Hawaii; and provided further that the State shall not be required to transfer funds to cover the vacation and sick leave credits earned or accumulated by the employees transferred;
- (2) All records, equipment, machinery, motor vehicles, files, supplies, contracts (and the rights and obligations under those contracts still in force and effect), books, papers, documents, and other personal property of every kind and description of Hilo Hospital; provided that it shall be without cost to the county of Hawaii or reimbursement to the State and without compliance with disposal procedures or requirements; and
- (3) The interests in and to any real property and the improvements thereon the use of which is directly related to and necessary for the operation and maintenance of Hilo Hospital.

SECTION 3. County of Hawaii may contract for management services. Upon the transfer or lease of Hilo Hospital, the county of Hawaii may contract for the management of Hilo Hospital. The county of Hawaii shall retain the option to resume management and operation of Hilo Hospital, if the per-

mance of the contractor does not conform to established standards of operation and management of health services. The county may contract with a private nonprofit corporation without regard to the requirements of chapter 103, Hawaii Revised Statutes, or a county ordinance to the contrary.

SECTION 4. Certificate of need exemption. Notwithstanding any provision of chapter 323D, Hawaii Revised Statutes, to the contrary, the transfer of functions pertaining to the operation and maintenance of Hilo Hospital from the State to the county of Hawaii shall not require a certificate of need from the state health planning and development agency.

SECTION 5. Alternative state authority to transfer management responsibilities. The governor may, as an alternative to transfer or lease authorized by section 1 above, contract for the management, operation, and maintenance of Hilo Hospital with a private, nonprofit corporation or lease the Hilo Hospital with the concurrence of the county of Hawaii by resolution. In both cases, the county of Hawaii shall provide assurances by ordinance that the county of Hawaii shall guarantee the financial obligations of the private, nonprofit corporation.

SECTION 6. Notwithstanding any other law to the contrary, the governor may transfer, lease, or contract as provided in sections 1 and 5 without regard to the requirements of laws relating to bidding, transfer of lands, and transfer of personnel.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 12, 1984.)

ACT 6

S.B. NO. 1546-84

A Bill for an Act Relating to Service Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 6, Act 153, Session Laws of Hawaii 1983, is amended to read as follows:

“SECTION 6. Provisions relating to the deposit of a portion of fees into the special fund authorized by section 416-97 shall terminate on [June 30, 1984,] June 30, 1985, at which time the entire amount of the fees shall be deposited to the general fund.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

ACT 7

(Approved April 13, 1984.)

ACT 7

S.B. NO. 1551-84

A Bill for an Act Relating to Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 436D-7, Hawaii Revised Statutes, is amended to read as follows:

“§436D-7 Fees and expenses. No applicant shall be examined and licensed under this chapter until [he] the applicant has paid [to] the board of acupuncture [a fee of \$60.] application, examination, and license fees. Every person holding a license under this chapter shall reregister with the board biennially, not later than December 31 of each odd-numbered year, and [for such registration] shall pay a [fee of \$20.] renewal fee. Failure to do so shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment [to the board] of a [fee of \$30.] restoration fee. All [such] fees shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 2. Section 437-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person applying for a salesman’s license under this section shall be granted a temporary license by the executive secretary of the board, provided no patent disqualification of the applicant is disclosed or no valid objection to the granting of the temporary license is apparent and if all requirements relative to the filing of the application appear to have been met, including compliance with section 437-21, and the dealer files an affidavit certifying that this person is employed by and under the supervision of [such] the dealer. A fee [of \$10] shall be charged for the issuance of the temporary license, as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and [such] the license shall remain in effect until the board acts on [his] the application for a permanent license.”

SECTION 3. Section 437-7, Hawaii Revised Statutes is amended by amending subsection (d) to read as follows:

“(d) [Filing fees.] All applicants for the issuance of a new license shall pay a [\$25 filing] fee concurrently with each application, except the [filing] application fee for a new salesman’s or auctioneer’s license shall be [\$10.] a lesser amount than the fee for other licenses issued under this chapter. The application

fees shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91."

SECTION 4. Section 437-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [Authority to establish.] The [board] director of commerce and consumer affairs shall establish by rules [and regulations] in accordance with chapter 91, the original and biennial license fees for licenses issued pursuant to this chapter."

SECTION 5. Section 437-25, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) [Fees.] The fees for amended licenses shall be [set by the board, by rules and regulations in accordance with] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91."

SECTION 6. Section 437B-9, Hawaii Revised Statutes, is amended to read as follows:

"[[§437B-9[]] Fees[;]; application; biennial renewals[.]; registration,

(a) The fees for each application, original biennial registration and renewal [thereof shall be as follows:

Motor vehicle repair dealer \$ 50

Motor vehicle mechanic.....\$ 20]

for the motor vehicle repair dealer and the motor vehicle mechanic shall be as provided in rules adopted by the department pursuant to chapter 91.

(b) Any motor vehicle repair dealer maintaining more than one motor vehicle repair facility shall separately register each repair facility and pay a fee for each facility.

(c) The renewal fee shall be paid to the board on or before June 30 of each odd-numbered year. Failure, neglect, or refusal of any registrant to pay the biennial renewal fee before [such] the date shall constitute a forfeiture of [his] the registration. Any [such] registration may be restored upon written application therefor within one year from [such] the date and the payment of the required fee plus an amount equal to fifty per cent thereof."

SECTION 7. Section 437B-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The certification test shall include both a written test and a performance test; provided that the written test shall be given orally upon the request of the person being tested. Each application for certification shall be accompanied by a nonrefundable [testing] examination fee [of \$10.] as provided in rules adopted by the department pursuant to chapter 91."

ACT 7

SECTION 8. Section 438-11, Hawaii Revised Statutes, is amended to read as follows:

“§438-11 Fees. (a) [The fee to be paid by an applicant for an examination to determine the applicant’s fitness to receive a certificate of registration to practice barbering shall be \$15. The fee to be paid by an applicant for an examination to determine the applicant’s fitness to receive a certificate of registration to practice as an apprentice shall be \$10.] Applicants for barber and apprentice barber certificates of registration shall pay application, examination, and registration fees.

(b) [The fee to be paid for the renewal of the certificate of registration to practice barbering shall be \$10, and for the restoration of an expired certificate \$10.] Applicants for renewal of certificates to practice barbering and to practice as an apprentice and applicants for restoration of expired certificates shall pay the required fees.

(c) The fee to be paid for the renewal of the certificate of registration to practice as an apprentice shall be \$8, and for the restoration of an expired certificate \$8.

(d) (c) [The fee to be paid by an applicant to conduct a barber shop shall be \$25. The fee to be paid for the biennial renewal of a certificate shall be \$20 and for the restoration of an expired certificate \$20.] Applicants to conduct a barber shop shall pay application and registration fees. Applicants for biennial renewal of a certificate to conduct a barber shop and for the restoration of an expired certificate shall pay the required fees.

(e) (d) A duplicate certificate shall be issued upon the filing of a statement covering the loss of a certificate or permit, verified by the oath of the applicant, and the submission by the applicant of one signed photograph of the applicant, and the payment of a duplicate fee [of \$1]. Each duplicate certificate or permit shall have the word “duplicate” stamped across the face thereof, and shall bear the same number as the certificate or permit that it was issued in lieu of.

(e) All fees [received by the board of barbers] required by this chapter shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 9. Section 439-10, Hawaii Revised Statutes, is amended to read as follows:

“§439-10 Apprentices, students, and instructor-trainees. An apprentice, student, or instructor-trainee shall be registered and given a certificate to that effect upon payment of application and [payment of a fee of \$3] registration fees and submission of evidence satisfactory to the board of cosmetology that the applicant is at least sixteen years of age, of good moral character, is possessed of

an education equivalent to the completion of four years of high school and, in the case of an instructor-trainee, has the required three years of experience as a registered operator.”

SECTION 10. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

“§439-12 Requisites for admission to examination and registration. The executive secretary of the board of cosmetology shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of [an] application, examination [fee of \$20], and registration fees for each of the practices or occupations or any one or any combination of the practices or occupations, provided the operator is of good moral character and has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; and provided further that an applicant to be registered solely in the practice of removing superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have trained under the supervision of a registered electrologist for at least six hundred hours including other studies as the board may prescribe; provided further that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section; and provided further that an applicant may be registered solely in the classified practice of a manicurist and an applicant so registered may engage in a classified practice in a barber shop, a beauty shop, or in the applicant’s own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further that an applicant may be registered solely as a “Hair Cosmetician” in the classified occupation of a cosmetician upon serving one thousand two hundred hours of time as an apprentice

under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination [after paying the initial examination fee of \$20,] shall thereafter pay [an] the examination fee [of \$10] for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which the person has been examined so long as the person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of the registration by the board.

- (2) Instructors may be registered in any of the classified practices or occupations upon the payment of [an] application, examination [fee of \$20], and registration fees, provided the instructors are of good moral character and have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period of at least three years as a registered operator in the State or in another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the State and have passed an examination satisfactory to the board; provided that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid existing instructor's license in another territory, county, or state having standards substantially equivalent to those in force in the State at the time of the registration, for the limited purpose of either (A) commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (B) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 11. Section 439-15, Hawaii Revised Statutes, is amended to read as follows:

“§439-15 Certificates of registration[.], fees. (a) [Certificates.] The board of cosmetology shall issue a certificate of registration as apprentice, student, instructor-trainee, operator, or instructor, as the case may be, to each person who passes the required examination, pays the proper [fee,] fees, and meets all of the other requirements of this chapter. The certificate shall state specifically the occupation for which the person is registered and shall be signed by the chairman and executive secretary and impressed with the seal of the board.

(b) [Expiration.] All certificates issued by the board expire on December 31 of each odd-numbered year.

(c) [Renewal.] Every registered operator and instructor shall pay to the board between December 1 and 31 of each odd-numbered year a biennial renewal fee [of \$8]. The payment of the renewal fee shall entitle the registrant to renewal of the certificate.

(d) [Renewal after lapse.] The certificate of an apprentice, operator, or instructor shall be reinstated upon payment of all delinquent fees and a penalty [of \$10] fee if application is made within three years after lapse.

(e) All fees required by this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.”

SECTION 12. Section 439-16, Hawaii Revised Statutes, is amended to read as follows:

“§439-16 Temporary certificates. The board of cosmetology may issue temporary certificates authorizing the person concerned to practice as an operator until the results of the next examinations have been published. The certificate may be issued upon application only to a person who has paid the usual application and examination [fee] fees and who possesses one of the following qualifications:

- (1) Is a graduate of a school and course which meet the standards established for schools in the State;
- (2) Has been, for three out of the four years immediately preceding the date of the application, lawfully engaged in another state, territory, or country in the occupation covered by the certificate sought;
- (3) Holds a valid and existing license to engage in the occupation covered by the certificate sought in a state, territory, or country having standards for registration substantially equivalent to those in force in the State at the time of the application.”

SECTION 13. Section 439-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Registration.] A certificate of registration of a beauty shop may be secured by filing an application therefor and paying [a fee of \$20] the application

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and registration fees and showing to the satisfaction of the board of cosmetology that the shop meets the standards of sanitation required by the rules of the department of health, that a registered managing operator who has practiced as a registered operator in the State for at least one year is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the registered managing operator have practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year's practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop."

SECTION 14. Section 439-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [Renewal.] All certificates shall expire on December 31 in each odd-numbered year. Certificates may be renewed by payment of a biennial fee [of \$8] prior to the date of expiration. A lapsed certificate may be reissued upon payment of the renewal fee and a penalty [of \$10.] fee."

SECTION 15. Section 439-18, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [Registration.] Any person may apply to the board of cosmetology for a certificate of registration as a school of any of the practices of the classified occupations, upon the payment to the board of [an] application and initial registration [fee] fees for the first year of the registration [in the sum of \$750]. Thereafter an annual registration fee shall be [paid to the board in accordance with the following schedule: if at no time during the preceding year the school had more than twenty-five pupils, then the fee shall be in the sum of \$150, and if at any time during the preceding year the school had twenty-six or more pupils, then the fee shall be in the sum of \$250.] based on student enrollment."

SECTION 16. Section 440-11, Hawaii Revised Statutes, is amended to read as follows:

"§440-11 License fee; bond. The application for a license to promote professional boxing contests or amateur boxing contests shall be accompanied by [an annual fee, or, by the fee required for a single promotion. The fee for an annual license or for a license covering some definite period less than one year shall be \$150 in the city and county of Honolulu and \$50 in each of the other counties. The fee for a single promotion shall be \$75 in the city and county of Honolulu and \$37.50 in each of the other counties. Applications for licenses to promote amateur boxing contests shall be accompanied by an annual fee of \$75 in the city and county of Honolulu and \$37.50 in each of the other counties.] a

fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

Before any license is granted, the applicant shall file with the boxing commission a bond in the sum of \$5,000 with good and sufficient sureties conditioned for the faithful performance by the applicant of this chapter. In case of default in the performance, the bond shall be forfeited and the full amount thereof, or any less amount as the commission may determine, shall be recovered by the attorney general in the name of the State and the amount so recovered shall be paid to any aggrieved party for monetary damages sustained as a result of the applicant's default in performance, as determined by the commission, with the remainder paid into the state treasury."

SECTION 17. Section 440-13, Hawaii Revised Statutes, is amended to read as follows:

"§440-13 License fees. [Every] License fees shall be paid annually to the State by every applicant to whom a license is issued to participate in the conduct of professional boxing in any of the capacities [hereinafter] set forth in this section [shall pay annually to the State a license fee as follows]: physician, [\$7.50;] referee, [\$37.50;] judge, [\$15;] matchmaker, [\$10;] manager, [\$37.50;] timekeeper, [\$7.50;] second, [\$7.50;] announcer, [\$7.50;] and professional boxer[, \$7.50]. The charge for a duplicate of a license [shall be \$1.50.] and all fees required by this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.

The [boxing commission] director of commerce and consumer affairs may establish a schedule of license fees for participation in amateur boxing contests, and may waive payment of license fees for amateur boxing contests."

SECTION 18. Section 442-2, Hawaii Revised Statutes, is amended to read as follows:

"§442-2 License to practice. (a) It shall be unlawful for any person to practice chiropractic without a license. Any person applying for a license to practice chiropractic shall submit an application to the board of chiropractic examiners sixty days prior to the examination[. The application shall be] accompanied by [an] the application and examination [fee of \$50 and such] fees, documents, and affidavits as are prescribed by law. The application shall be submitted in accordance with the rules of the board of chiropractic examiners and shall be signed and verified under oath by the applicant, and in addition thereto each applicant shall furnish to the board of examiners:

- (1) An unretouched, unmounted photograph taken within sixty days next preceding the date of the application;

- (2) A photostatic copy of the diploma from a chiropractic college or school;
- (3) After March 1, 1958, satisfactory proof that the applicant has completed two years of liberal arts or science study at a university or college; provided that the foregoing requirement shall not be applicable to applicants having entered an approved chiropractic college on or before October 31, 1955.

(b) Except in the cases [herein] otherwise prescribed in this section each applicant shall be a graduate of an incorporated chiropractic school or college recognized and approved by the board, which teaches a course of not less than forty-two hundred, fifty minute hours, of which six hundred hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors.

(c) The course shall extend over a period of four school terms of at least nine months each, and each applicant shall give satisfactory proof of having attended not less than ninety per cent of [such] ~~the~~ forty-two hundred hours and of having satisfactorily passed the following subjects[;]: anatomy and histology, physiology, bacteriology, hygiene and sanitation, pathology, chiropractic diagnosis or analysis, chiropractic orthopedy, gynecology and obstetrics, symptomatology, chemistry and elementary toxicology, chiropractic analysis and the principles and practice of chiropractic, and technique.

(d) Each applicant who successfully passes the examination shall pay a license fee."

SECTION 19. Section 442-6, Hawaii Revised Statutes, is amended to read as follows:

"§442-6 Examinations. (a) The board of chiropractic examiners shall meet as a board of examiners for the purpose of conducting examinations on the first Tuesday following the second Monday of April and October of each year, and the board shall meet otherwise regularly on the Thursday nearest the 15th day of March, May, September, and November, and at [such] other times and places as may be found necessary for the performance of its duties. The office of the board shall be in Honolulu.

Each applicant shall be designated by a number instead of the name, so that the applicant's identity will not be disclosed to the examiners until the papers are graded.

(b) The examinations shall be in subjects enumerated in section 442-2 and shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The examination shall include both practical demonstration and a written examination. The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners' examination in lieu of the written portion of the state board of

[chiropractice] chiropractic examiners' examination. A license shall be granted to any applicant who attains a score of seventy-five per cent, or higher in all subjects and sections of the examination. Any applicant failing to make the required grade, may be reexamined at the next regular examination on all of the subjects mentioned in section 442-2, upon payment of a reexamination fee [of \$50]. For each year of actual practice as a licensed chiropractor in another state the applicant shall be given a credit of one-half per cent up to twenty years maximum to be added to each score for each subject area."

SECTION 20. Section 442-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) At any time following the suspension or revocation of a license, the board may restore [such] the license with all of its original rights and privileges. Any person to whom [such] these rights have been restored shall pay to the secretary [the sum of \$25] a restoration fee upon the issuance of a new license."

SECTION 21. Section 442-11, Hawaii Revised Statutes, is amended to read as follows:

"§442-11 Biennial registration; fees; failure to register. Every person holding a license to practice chiropractic in the State shall reregister with the [secretary-treasurer] secretary of the board of chiropractic examiners on or before December 31 of each odd-numbered year and shall pay a reregistration fee [of \$15]. The secretary of the board [shall], on or before November 30 of each odd-numbered year, shall mail to the last known address of all licensed chiropractors a notice thereof.

The failure, neglect, or refusal of any person holding a license to practice chiropractic to reregister or to pay the reregistration fee [of \$15], after thirty days of delinquency, constitutes a forfeiture of [his] the license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and [\$25,] a penalty fee, if [such] the application and payments are made within a period of one year from the date of the inception of [such] the delinquency. In the event, however, [such] the delinquency is permitted to continue over a period of one year, in addition to the foregoing requirements, [such] the person shall submit to and successfully pass a reexamination written or oral, conducted by the board at its regular meetings."

SECTION 22. Section 442-14, Hawaii Revised Statutes, is amended to read as follows:

"§442-14 Change of residence. Every holder of a license who leaves to reside outside the State, shall immediately notify the secretary of the board of chiropractic examiners of the change in writing and the change shall be noted in the secretary's registry book. Failure to do so constitutes a violation and works a

forfeiture of [his] the license, and it shall not be restored except upon the written application therefor and a payment to the board of a penalty [of \$25.] fee."

SECTION 23. Section 442-18, Hawaii Revised Statutes, is amended to read as follows:

"§442-18 Disposition of fees[.]; establishment of fees by rule. All moneys received by the board of chiropractic examiners under this chapter shall be paid to the director of finance as government realizations. All fees required by this chapter or in rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91."

SECTION 24. Section 447-1, Hawaii Revised Statutes, is amended to read as follows:

"§447-1 Who may become dental hygienists[.]; fees. (a) Any person [being] eighteen years of age or over and holding or having a diploma or a proper certificate of graduation from an accredited high school employing at least a four year course of instruction and likewise holding and having a diploma or proper certificate of graduation from an American training school for dental hygienists requiring at least a two year course, accredited and recognized by the board of dental examiners, [may,] upon written application made to and filed with the secretary of the board at least thirty days prior to the date selected by the board for the examination, may be examined by the board for qualification as a dental hygienist.

The application for examination shall be accompanied by the applicant's certificate of graduation, and at the time of filing the same, the applicant shall pay to the board [an] application and examination [fee of \$30,] fees, which [fee,] fees, together with all other fees or charges in this chapter [provided], shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and shall be deposited with the director of finance to the credit of the general fund.

(b) Two examinations shall be held in each year at such time as the board designates. The examinations shall cover subjects considered essential by the board for a dental hygienist and shall likewise include a practical examination on the removal of deposits or stains from the exposed surfaces of the teeth. The board shall furnish a chair and engine, but the applicant shall supply all necessary instruments, materials, and patients for the examination.

(c) If the applicant, in the opinion of the board, successfully passes the examination, [he] the applicant shall be registered and receive a certificate of ability to practice as a dental hygienist in the State. Every registered dental hygienist, before entering practice, shall pay the board [\$4.50 as] a registration fee. On or before December 31 of each odd-numbered year, every registered

dental hygienist desiring to begin or continue to practice in the State shall pay to the board a fee [of \$9] for the biennial registration thereof. The failure, neglect, or refusal of any [such] duly licensed dental hygienist to pay the biennial registration fee shall constitute a forfeiture of the license, but the license may be restored upon written application therefor and [the] payment to the board of [the sum of \$20.] a restoration fee.

Every dental hygienist practicing dental hygiene in the State shall furnish the board with [his] the place of employment and the name of the dentist or institution by whom [he] the dental hygienist is employed.

(d) No person shall practice dental hygiene, either gratuitously or for pay, or shall offer or attempt so to practice, or shall advertise or announce [himself] publicly or privately as being prepared or qualified so to practice, without having a license as in this section provided, nor shall any licensed dental hygienist practice except under the supervision of a licensed dentist as in this chapter provided.”

SECTION 25. Section 448-7, Hawaii Revised Statutes, is amended to read as follows:

“§448-7 Fees. Every applicant qualified for registration shall pay a license fee before entering practice. Every person holding a license to practice dentistry in the State shall pay to the board on or before December 31 of each odd-numbered year, a biennial registration fee [in the sum of \$21]. The failure, neglect, or refusal of any duly licensed dentist or doctor of dental surgery to pay [such] the biennial fee during the time [his] the license remains in force, shall constitute a forfeiture of [his] the license. The license may be restored upon written application therefor and the payment to the board of dental examiners of the [sum of \$25. All fees received by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.] appropriate fee.”

SECTION 26. Section 448-9, Hawaii Revised Statutes, is amended to read as follows:

“§448-9 Application for examination for graduates of dental colleges accredited by the American Dental Association. Any person of eighteen years or more, shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

- (1) Submit an application in writing to the executive secretary of the board [no] not later than sixty days prior to the date of the scheduled examination.
- (2) Remit [an] application and examination [fee set by the board with each application, the fee to be deposited by the director of

commerce and consumer affairs with the director of finance to the credit of the general fund.] fees.

- (3) Submit with each application documentation and credentials which include but are not limited to the following:
 - (A) A recent unmounted photograph of the applicant;
 - (B) A diploma or certificate of graduation from a dental college accredited by the Council of Dental Education of the American Dental Association, recognized and approved by the board; and
 - (C) A certificate or other evidence satisfactory to the board of having passed [Parts] parts I and II of the examination of the National Board of Dental Examiners."

SECTION 27. Section 448-9.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person of eighteen years or more, who is a graduate of a foreign dental school not accredited by the American Dental Association and a permanent resident of the United States shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

- (1) Submit an application in writing to the executive secretary of the board [no] not later than sixty days prior to the date of the scheduled examination.
- (2) Remit [an] application and examination [fee set by the board with each application, said fee to be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.] fees.
- (3) Submit with each application documentation and credentials which include but are not limited to the following:
 - (A) A recent unmounted photograph of the applicant;
 - (B) A complete transcript of the academic and clinical dental school record of the applicant, authenticated by either the president, secretary, dean, or registrar of the educational institution. The transcript shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in each transcript submitted, that the transcript is a true recital of the full number of academic years of undergraduate courses required for graduation, that such courses of professional instruction in dentistry were accomplished in a resident course of instruction;
 - (C) A legible, true copy of the dental diploma or dental degree conferred upon the applicant as evidence of the completion of

the courses of dental instruction required for graduation, authenticated by either the president, secretary, dean, or registrar of the educational institution. The diploma or degree shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in the document, that the applicant is the lawful holder, and that it was procured in the regular resident course of instruction and examination without fraud or misrepresentation;

- (D) Certification by the licensing authority of the governmental jurisdiction, wherein is located the foreign institution from which the applicant was graduated that the applicant has been admitted or licensed to practice dentistry in [such] that foreign state, country, or political subdivision;
- (E) A certificate or other evidence satisfactory to the board of having passed [Parts] parts I and II of the examination of the National Board of Dental Examiners; and
- (F) Other documentation and credentials as may be required by the board."

SECTION 28. Section 448-10, Hawaii Revised Statutes, is amended to read as follows:

"§448-10 Examination; time[.]; establishment of fees by rule; disposition of fees. (a) The board of dental examiners shall require all applicants to take the state written and practical examination on dentistry. In administering the examination the State shall consider current trends in dental education. The requirements for the examination in operative and laboratory dentistry shall be decided by the board and mailed to each applicant. All instruments, materials, and patients shall be supplied by the applicant. Two examinations shall be held each year.

(b) The board of dental examiners shall establish and administer a restorative technique examination to all qualified applicants under section 448-9.5. The examination shall consist of preparation and restorative procedures in gold foil and amalgam on a special typodont model. No applicant shall be permitted to take the practical examination under subsection (a) unless the applicant has passed the restorative technique examination. The restorative technique examination fee, together with all other fees or charges in this chapter or in rules adopted by the board, shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and shall be deposited with the director of finance to the credit of the general fund."

SECTION 29. Section 448H-8, Hawaii Revised Statutes, is amended to read as follows:

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“§448H-8 [License fees, renewals.] Fees. [An applicant for a license or temporary permit to practice as an elevator mechanic shall pay a fee of \$10.] Application, examination, license, temporary permit, and biennial renewal fees shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. A fee [of \$5] is required for each [re-examination.] reexamination. Application fees are not refundable.

Licenses shall expire on June 30 of each even-numbered year [and the biennial license renewal fee shall be \$20]. All fees received by the board pursuant to the provisions of this chapter shall be deposited with the director of finance to the credit of the general fund.”

SECTION 30. Section 451A-7, Hawaii Revised Statutes, is amended to read as follows:

“[[§451A-7[]] Issuance of license. The board shall register each applicant without discrimination or examination who satisfactorily meets the experience requirements or who passes an examination as provided in section 451A-2. Upon the payment of [\$5,] application, examination, and license fees, the board shall issue to the applicant a license. The license shall be valid until January 30 of the year following the year in which the license is issued.”

SECTION 31. Section 451A-8, Hawaii Revised Statutes, is amended to read as follows:

“§451A-8 Biennial renewal of license; fees; effect of failure to renew. Each person who engages in the fitting and sale of hearing aids, [shall] on or before December 31 of each odd-numbered year, shall pay to the department a biennial fee [of \$10,] for renewal of [his] the license and shall keep the certificate conspicuously posted in [his] the licensee's office or place of business at all times. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the department for posting at each location. A thirty-day grace period shall be allowed after December 31, during which time licenses may be renewed upon payment of [\$20] a restoration fee to the department. After expiration of the grace period, the department may renew [such] the certificates upon payment of [\$30] a second restoration fee to the department. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal; provided that the renewal application is made within two years from the date of expiration.”

SECTION 32. Section 451A-9, Hawaii Revised Statutes, is amended to read as follows:

“[[§451A-9[]] Temporary permit. (a) Upon receiving an application for a temporary permit and a payment of [\$5,] a fee, the board may issue a temporary permit which shall entitle the applicant to engage in the fitting and

sale of hearing aids for a period of one year. A waiting period is not required. A person issued a temporary permit shall be under the direct supervision and training of a person duly licensed under this chapter.

(b) If a person who holds a temporary permit under this section has not passed the examination within one year from the date of issuance, the temporary permit may be renewed or reissued once upon payment of [a \$5] the required fee."

SECTION 33. Chapter 451A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§451A- Disposition of fees; establishment of fees by rule. All fees required by this chapter shall be as provided in rules adopted by the department pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund."

SECTION 34. Section 452-13, Hawaii Revised Statutes, is amended to read as follows:

"§452-13 Requisites for admission to examination and licensing of massage therapists, massage establishments, and out-call massage services. (a) [Massage therapist.] The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) An applicant for examination shall have good moral character, and a medical report which shall include an X-ray examination of the chest made, or a tuberculin clearance report dated, not more than six months prior to the date of application and a statement by a licensed physician that the applicant has been examined and is free of all other communicable and contagious diseases. A non-refundable application fee [of \$15] and an examination fee [of \$15], which shall be refunded only if the board finds that the applicant is not qualified to take the license examination, shall be paid to the board at the time of the application.
- (2) The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant's moral character.
- (3) An applicant for examination shall have spent at least six months as a massage therapist apprentice and have met all other requirements set for apprentices by the board pursuant to section 452-6(d).
- (4) The board may waive the examination of an applicant upon the payment of the application fee and the submittal of a medical report as required in paragraph (1) if the applicant is licensed in another

state, territory, or the District of Columbia, wherein the license requirements are found by the board to be comparable or more stringent than the requirements in force in this State.

(b) [Massage establishments and out-call massage services.] An applicant desiring to license a massage establishment or an out-call massage service shall file with the board a written application under oath, on a form prescribed and supplied by the board, and setting forth that [he] the applicant has complied with all of the requirements in [such] a manner and detail as may be required by the rules established by the board. A license fee [of \$100] shall be paid to the board together with the application fee [of \$15].”

SECTION 35. Section 452-15, Hawaii Revised Statutes, is amended to read as follows:

“§452-15 Licenses. If an applicant for an examination for massage therapist passes the examination to the satisfaction of the board, or the board has waived the examination under section 452-13(a)(4), and the applicant has paid a license fee [of \$25], the board shall issue a license to that effect, signed by the chairman. The license shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this chapter. The license shall not be transferable and shall be conspicuously displayed in the place of business or employment.”

SECTION 36. Section 452-16, Hawaii Revised Statutes, is amended to read as follows:

“§452-16 Renewal of license; fees. Massage therapist, massage establishment, and out-call massage service licenses shall expire on June 30 of each even-numbered year following the date of issuance unless renewed for the next biennium. A license may be renewed by filing an application therefor, accompanied, in the case of a massage therapist, by a renewal fee [of \$25] and a medical report similar to that required on initial application and, in the case of an establishment or out-call massage service, by a renewal fee [of \$100]. The application shall be made between May 1 and June 30 of each even-numbered year. Failure to apply for renewal as [herein] provided in this section shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after expiration upon the filing of an application in the same manner and payment, in addition to all delinquent fees, of a penalty [of \$25.] fee. Thereafter, the license shall not be restored unless the regular examination for applicants is again taken and passed.”

SECTION 37. Section 452-17, Hawaii Revised Statutes, is amended to read as follows:

“§452-17 Fees. The fees for application, examination, licensing, and other registrations shall be as provided in [this chapter,] rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and shall be paid in advance and deposited [by the director of commerce and consumer affairs] with the director of finance to the credit of the general fund.”

SECTION 38. Section 455-2, Hawaii Revised Statutes, is amended to read as follows:

“§455-2 Application for examination; fee. Any person desiring to practice naturopathy shall apply in writing to the state board of examiners in naturopathy upon a blank form prepared and furnished by the board and shall include in the application such facts concerning the applicant as the board shall require. Each application shall be filed by the applicant and sworn to before an officer authorized to administer oaths. At the time of the application each applicant shall pay an examination fee [of \$50[75]] to the department of commerce and consumer affairs which shall not be refunded if the applicant fails to pass the examination.

No person shall be licensed to practice naturopathy unless [he] the person has been duly examined and has passed [such] the examination.”

SECTION 39. Section 455-8, Hawaii Revised Statutes, is amended to read as follows:

“§455-8 License to practice; biennial registration. Licenses to practice naturopathy shall be issued by the board in such form as the board determines, to those who qualify according to this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all state [regulations] requirements relative to reporting births and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every person holding a license to practice in the State shall reregister with the state board of examiners in naturopathy on or before December 31 of each odd-numbered year and shall pay a reregistration fee [of \$200]. The failure to so reregister and pay the reregistration fee constitutes a forfeiture of license; provided that the license shall be reinstated upon written application therefor together with payment of all delinquent fees [and the sum of \$75.] and a penalty fee.”

SECTION 40. Chapter 455, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§455- Disposition of fees; establishment of fees by rule. All fees required by this chapter or rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to

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chapter 91. All fees shall be deposited with the director of finance to the credit of the general fund."

SECTION 41. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The applicant applying for a license to practice as a registered nurse by examination shall pay [a fee of \$30] application and examination fees to the board and a reexamination fee [of \$10] for each reexamination. Each applicant who successfully passes the examination shall pay a license fee. The applicant applying for a license to practice as a registered nurse by endorsement shall pay application and license fees."

SECTION 42. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Any person who requests to take the licensing examination to qualify for a license in another state shall pay [a] an examination proctoring fee [of \$10] to the board."

SECTION 43. Section 457-7, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Any person who requests verification of a registered nurse license to a nursing board of another state shall pay a license verification fee [of \$5]."

SECTION 44. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The applicant applying for a license to practice as a licensed practical nurse by examination shall pay [a fee of \$15] application and examination fees to the board and a reexamination fee [of \$10] for each reexamination. Each applicant who successfully passes the examination shall pay a license fee. The applicant applying for a license to practice as a licensed practical nurse by endorsement shall pay application and license fees."

SECTION 45. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Any person who requests to take the licensing examination to qualify for a license in another state shall pay [a] an examination proctoring fee [of \$10] to the board."

SECTION 46. Section 457-8, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Any person who requests verification of a practical nurse license to a nursing board of another state shall pay a license verification fee [of \$5]."

SECTION 47. Section 457-9, Hawaii Revised Statutes, is amended to read as follows:

“§457-9 Renewal of license. (a) The license of every person licensed under this chapter shall be renewed biennially, except as [hereinafter] provided[.] in this section. Biennially in each odd-numbered year on or before July 1, the board shall mail an application for renewal of license to every person to whom a license was issued or renewed during the biennium. The applicant shall fill in the application blank and return it to the board with a renewal fee [of \$10] on or before June 30. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium beginning July 1 and expiring two years hence on June 30. The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

(b) Any licensee who allows a license to lapse by failing to renew the license as provided [above] in subsection (a) may be reinstated by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee [of \$5].

Any person practicing nursing during the time the person's license has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violations of this chapter.

A nurse who does not engage in nursing in the State during the succeeding year shall not be required to pay the renewal fee as long as the nurse remains inactive. Should the nurse wish to resume nursing at some future time, the nurse shall so notify the board and remit the renewal fee for the current biennial period.”

SECTION 48. Section 457-10, Hawaii Revised Statutes, is amended to read as follows:

“§457-10 Disposition of funds[.]; establishment of fees by rule. All fees received by the board and [monies] moneys collected under this chapter shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 49. Section 457B-9, Hawaii Revised Statutes, is amended to read as follows:

“§457B-9 Fees. (a) An applicant for a license to practice nursing home administration by examination shall pay [a fee of \$40.] application and examination fees. A reexamination fee [of \$20] is required for each reexamination. Application fees shall not be refundable. [The] Each applicant who successfully passes the examination shall pay a license fee.

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(b)¹ There shall be a biennial renewal fee [for a temporary license or a renewal of license shall be \$50. The biennial renewal fee] which shall be paid to the board on or before June 30 of each even-numbered year. Failure, neglect, or refusal of any duly licensed nursing home administrator to pay the biennial renewal fee shall constitute a forfeiture of the nursing home administrator's license. The license may be restored within three years upon written application therefor and the payment to the board of all delinquent fees plus a penalty [of \$10] fee and evidence of participation in educational programs.

(c) All fees and other moneys collected or received under this chapter or rules adopted by the board shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund."

SECTION 50. Section 458-4, Hawaii Revised Statutes, is amended to read as follows:

"§458-4 Application for certificate of dispensing optician. Before engaging or continuing in the occupation of dispensing optician individuals shall first apply for [and be granted certificates of dispensing opticians by the board of dispensing opticians. Applications for such registration shall be] examination on forms prescribed by the board, and the application shall [bear the signature of the individual.] be accompanied by the application and examination fees. The application shall bear the signature of the individual and shall contain the name under which the applicant proposes to do business, and the business address. Separate applications shall be made for each place of business, and each application shall be accompanied by a registration fee [of \$50. Upon refusal or denial of a certificate upon such application, the board shall refund to the applicant \$25 of the fee]."

SECTION 51. Section 458-6, Hawaii Revised Statutes, is amended to read as follows:

"§458-6 Issuance or denial of certificate of dispensing optician. If the board of dispensing opticians, after examination, approves the application and finds the applicant to be competent and qualified to accurately fill prescriptions for ophthalmic lenses and otherwise to engage in the business of dispensing optician, it shall register the applicant and issue to the applicant a certificate of dispensing optician[.] upon payment of the registration fee. If the board does not so determine, it shall deny the application. A separate certificate is required for each address where the business is to be conducted. The certificate shall authorize the applicant to engage in the business of dispensing optician. The certificate shall be at all times displayed in a conspicuous place at the place of the business licensed. The certificate shall not be transferable."

SECTION 52. Section 458-8, Hawaii Revised Statutes, is amended to read as follows:

“§458-8 Expiration and renewal. Certificates issued under this chapter, unless sooner suspended or revoked, expire on July 1 of each even-numbered year, but may be biennially renewed by the certificate holders in good standing upon the payment of a biennial renewal fee [of \$30]. The holder of an expired certificate may have the same restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty [of \$10.] fee.”

SECTION 53. Section 458-12, Hawaii Revised Statutes, is amended to read as follows:

“§458-12 Fees. All fees received by the board of dispensing opticians shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 54. Section 459-7, Hawaii Revised Statutes, is amended to read as follows:

“§459-7 Examination; certificate of registration. (a) Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry [shall], before beginning or continuing [such] practice, upon presentation of satisfactory evidence, verified by oath, that [he] the applicant is at least eighteen years of age, [is a citizen of the United States,] is a graduate of a high school, is a graduate of an American optometric college, school, or university recognized and approved by the board of examiners in optometry and the American optometric association, shall take an examination before the board upon complying with the following requirements:

- (1) Applications for examination shall be made out and filed in writing with the secretary of the board; and [each]
- (2) Each application shall be accompanied by [a] an application fee [of \$30], which shall be retained by the board[.], and an examination fee.

(b) Each applicant shall file, in writing, with the secretary at least thirty days prior to the date selected by the board for [such] examination, the following credentials:

- (1) A diploma or certificate of graduation from an American optometric college or school recognized and approved by the board;
- (2) A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures

and seals of the secretary of the board of optometric examiners, and the secretary of the state optometric association of that state; and

(3) An unretouched unmounted recent photograph of the applicant.

(c) The applicants shall be given due notice of the date and place of examination. No applicant who fails to obtain an average of seventy per cent in every subject upon which [he] the applicant is examined shall be passed by the board. If an applicant, because of [his] the applicant's failure to pass an examination is refused a license, [he] the applicant [shall], within one year, shall be permitted to take a second examination without additional fee. If an applicant fails the second time, [he] the applicant shall be required to file a new application and to pay [an additional] a reexamination fee [of \$30]. If an applicant fails the third time or any subsequent time, [he] the applicant shall be required to file a new application and to pay [an additional fee of \$30] the application and examination fees and to take a complete examination.

An appeal to the circuit court, of the circuit within which the applicant resides, may be taken from any decision of the board by any applicant who is refused or denied a certificate.

Every candidate who passes an examination shall be registered as possessing the qualifications required by this chapter, and shall receive from the board a proper certificate of registration[.] upon payment of a registration fee. Before any certificate is issued it shall be numbered and recorded on a book kept by the secretary of the board of examiners in optometry.

(d) Each registered optometrist shall pay a biennial license fee [of \$15] between December 1, and December 31 of each odd-numbered year, to the [treasurer of the] board for a renewal of [his] the optometrist's registration certificate for the biennium. The failure of any regular licensed optometrist to pay [his] the biennial license fee in advance on or before December 31 of each odd-numbered year, during the time [his] the optometrist's license remains in force, shall ipso facto, work a revocation and forfeiture of [his] the license. Any person whose license is so revoked and forfeited shall pay a penalty [of \$25] fee for the restoration of [his] the license, and, in addition, all delinquent biennial license fees. When an application for restoration of a license is made and all delinquent license fees and penalties are paid within three years after the forfeiture no examination shall be required. If this is not done within three years, the license shall not be restored unless the regular examination for applicants is passed [by such person].

(e) Each registered optometrist shall submit proof to the board of examiners that [he] the optometrist did, on or before December 31 of each even-numbered year, during the time [his] the license remains in force, meet the requirement of continuing education in programs as set and approved by the board. The board shall [establish such] adopt rules [and regulations] for the certification of the administration of the continuing education program."

SECTION 55. Section 459-11, Hawaii Revised Statutes, is amended to read as follows:

“§459-11 Disposition of fees[.]; establishment of fees by rule. All fees received by the board of examiners in optometry shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 56. Section 460-5, Hawaii Revised Statutes, is amended to read as follows:

“§460-5 Fees. (a) [License fee.] No applicant for a license to practice as an osteopathic physician or as an osteopathic physician and surgeon shall be examined until the applicant has paid to the board of osteopathic examiners [a fee of \$50.] application and examination fees.

(b) [Renewal fees.] Section 460-2 and any other provisions of this chapter to the contrary notwithstanding, there shall be paid to the board by every person licensed to practice as an osteopathic physician or an osteopathic physician and surgeon, biennially in each even-numbered year on or before June 30, a renewal fee [in the amount of \$15]. Failure of any licensee to pay any renewal fee shall work a forfeiture of the license. Licenses forfeited by this section shall be reissued upon payment of a penalty [of \$5] fee and all fees which the licensee would have paid if the licensee had continuously renewed the license.

(c) [Disposition of fees.] All fees collected by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

(d) All fees required by this chapter or rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.”

SECTION 57. Section 460-8, Hawaii Revised Statutes, is amended to read as follows:

“§460-8 License issued. Each applicant who successfully passes the examination shall [be entitled to] pay a license[.] fee. The following kinds of license shall be issued:

- (1) To practice as an osteopathic physician in accordance the teachings of legally chartered and approved colleges of osteopathy in good standing, with the following rights, among others, to wit: to practice obstetrics; to practice surgery other than major surgery; and to administer anesthetics, antiseptics, germicides, parasitocides, biologicals, narcotics, and antidotes; or

- (2) To practice as an osteopathic physician and surgeon. This license confers unlimited surgical rights, as well as the right to practice in all other respects as an osteopathic physician.”

SECTION 58. Section 460-9, Hawaii Revised Statutes, is amended to read as follows:

“§460-9 Foreign license. (a) The board of osteopathic examiners, [may,] in its discretion, may issue a license, without examination, to a practitioner who has been licensed in any country, state, territory, or province, upon the following conditions:

- (1) That the applicant is of good moral character;
- (2) That the applicant shall designate in the application whether the applicant desires to practice as an osteopathic physician, or as an osteopathic physician and surgeon;
- (3) That the requirements for a license in the country, state, territory, or province in which the applicant is licensed, are deemed by the board of osteopathic examiners to have been practically equivalent to the requirements for a license in force in the State at the date of the license; and
- (4) That the applicant has practiced the profession as an osteopathic physician for three years prior to the date of the application.

(b) The board [may also], in its discretion, may accept the examination of the national board of examiners for osteopathic physicians and surgeons in lieu of its own examination and may issue a license to an applicant presenting a certificate from the national board of examiners for osteopathic physicians and surgeons upon the basis of the examination of the national board; provided the applicant otherwise meets the requirements of the laws of this State.

(c) The board [may also], in its discretion, may issue a license, without examination, to an osteopathic physician who is a graduate of an approved osteopathic college in good standing and who has passed an examination for admission into the medical corps of the United States [army, United States navy,] Army, Navy, or [the United States public health service.] Public Health Service.

(d) The [fee] application and license fees for the licenses shall be [\$100 and shall be] paid to the board at the time of application. In case the application is not approved by the board the license fee shall be returned to the applicant.”

SECTION 59. Section 460J-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every applicant for a license under this chapter shall file an application [with the board in such form and setting forth such information as may be] on forms prescribed or required by the board, and shall furnish [such]

any additional information bearing upon the issuance of the license as the board requires. Every application shall be sworn to before an officer authorized to administer oaths[.] and shall be accompanied by the application and examination fees. In the case of a copartnership, joint venture, or corporation, any licensed member or officer [therefore] therefor may sign the application and verify the same on behalf of the applicant[.] and every application shall be accompanied by the application and license fees. In the case of a proprietorship, every application shall be accompanied by the application and license fees."

SECTION 60. Section 460J-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every application for a license [hereunder] by an individual who passed the examination shall be accompanied by [an application] a license fee [of \$25]."

SECTION 61. Section 460J-14, Hawaii Revised Statutes, is amended to read as follows:

"§460J-14 Fees; biennial renewal. [The fee for each original license and renewal prescribed by this chapter shall be \$25 and \$50, respectively.]

The biennial renewal fee shall be paid to the board on or before June 30 of each even-numbered year. Failure, neglect, or refusal of any duly licensed operator to pay the biennial renewal fee shall constitute a forfeiture of [his] the person's license. Any [such] license may be restored upon written application therefor within one year from [such] the due date of the renewal fee and the payment of the delinquent fee plus an amount equal to ten per cent thereof.

All fees and other money collected or received under this chapter or rules adopted by the board shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund."

SECTION 62. Section 461-6, Hawaii Revised Statutes, is amended to read as follows:

"§461-6 Examination[.]; license. Every applicant shall pass an examination with a general average of not less than seventy per cent in the subjects of pharmacy, materia medica, chemistry, toxicology and posology, compounding of prescriptions, identification of drugs, state laws, and public health [regulations] rules relating to drugs, poisons, and devices used in the practice of pharmacy in the State, and such other subjects relating to the practice of pharmacy as the board of pharmacy may deem necessary for the protection of the public health.

Every application for examination shall be made on a form to be supplied by the board and shall be filed with the board at least thirty days before the

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examination. Each application shall be accompanied by [an] application and examination [fee of \$50.] fees. Examinations shall be held at least twice a year. Notice of the examination shall be given each applicant by registered mail.

Each applicant who successfully passes the examination shall pay a license fee."

SECTION 63. Section 461-7, Hawaii Revised Statutes, is amended to read as follows:

"§461-7 Temporary license. An applicant for examination who is a registered pharmacist as specified in [paragraph two of] section [461-5 above,] 461-5(2), may be granted a temporary license by the board of pharmacy; provided that [he] the person shall first pass a preliminary examination with a grade of not less than seventy per cent covering [State] state laws and public health [regulations] rules relating to drugs, poisons, and devices used in the practice of pharmacy in the State. A temporary license shall not entitle the holder [thereof] to a permanent license, and no permanent license shall be issued until [he] the person has passed the regular examination set forth under section 461-6. Only one temporary license shall be issued to the same applicant. A temporary license shall only remain in effect until the results of the next regular examination are announced; provided, that the board may extend any temporary license, upon written application, for good and just cause. Any applicant who fails to take or to pass the next regular examination shall surrender [his] the temporary license. The board shall receive [the sum of \$12] a fee for the issuance of a temporary license."

SECTION 64. Section 461-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [Renewal fee.] Every registered pharmacist shall pay to the treasurer of the board biennially between December 1 and December 31 a renewal fee [of \$24] for the biennium next following. The payment of the renewal fee shall entitle the registrant to renewal of [his] the license."

SECTION 65. Section 461-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) [Renewal after lapse.] Any holder of any expired license may be reinstated as a registered pharmacist upon payment of a penalty [of \$30] fee and all fees which [he] the person would have paid if [he] the person had continuously renewed [his] the person's license."

SECTION 66. Section 461-16, Hawaii Revised Statutes, is amended to read as follows:

"§461-16 Fees for permits; renewal. The board of pharmacy shall collect [a fee of \$18] application and permit fees for each permit to operate a pharmacy or to conduct or engage in the business of preparing, manufacturing, compounding, packing, or repacking[,] any drug, and a fee [of \$37.50] for each permit to conduct a single auction.

Permits issued under sections 461-14 and 461-15 shall be conspicuously displayed in the place for which the permit was granted. The permits shall not be transferable, shall expire on December 31 of each odd-numbered year following the date of issuance, and shall be renewed biennially. [The] A biennial renewal fee for each permit to operate a pharmacy or to conduct or engage in the business of preparing, manufacturing, compounding, packing, or repacking any drug shall be [\$36.] collected by the board. The holder of an expired permit may have the same restored within three years of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty [of \$36.] fee."

SECTION 67. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§461- Disposition of fees; establishment of fees by rule. All fees required by this chapter or rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. All fees required by this chapter shall be deposited with the director of finance to the credit of the general fund."

SECTION 68. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

"§463-5 Private detectives, guards, and agencies; license required. No person shall engage in the business of private detective or guard, represent oneself to be, hold oneself out as, list oneself or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the board of detectives and guards upon payment of [a licensing fee of \$37.50 a year] application, examination and license fees and no firm, corporation, partnership, or association shall engage in the business of private detective or guard, represent itself to be, hold itself out as, list itself or advertise as a private detective or guard agency or bureau or as furnishing detective, investigating, or guard services without first obtaining a license as a private detective or guard agency from the board upon payment of [a licensing fee of \$37.50 a year.] application and license fees."

SECTION 69. Section 463-7, Hawaii Revised Statutes, is amended to read as follows:"

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“§463-7 Guard license required. No person, firm, partnership, [or] corporation, or association shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent oneself to be, or hold oneself out as such without first obtaining a license as a guard or guard agency from the board of detectives and guards upon payment of [a licensing fee of \$37.50 a year.] the fees set forth in section 463-5.”

SECTION 70. Section 463-10, Hawaii Revised Statutes, is amended to read as follows:

“§463-10 Licenses and renewal of licenses[.]; establishment of fees by rule. (a) The license shall state the name and address of the principal office or place of business of the licensee, the name under which the licensed business is to be conducted, and the name of the principal detective or guard, if the licensee is a corporation.

The holder of a license issued by the board of detectives and guards who continues in active practice shall biennially renew [his] the license and pay the renewal fee not later than June 30 of each even-numbered year.

The holder of an expired license may have the [same] license restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty [of \$37.50.] fee.

(b) All fees required under this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 71. Section 464-9, Hawaii Revised Statutes, is amended to read as follows:

“§464-9 Applications for and certificates of registration; renewal[.]; fees. (a) Application for registration shall be made upon blanks to be furnished by the board and shall be signed and sworn to by the applicant. With each application there shall be paid to the board [the sum of \$30 as] an application fee, the fee to be nonreturnable after the application has been entered in the records of the board.

For each examination, or repetition thereof in whole or in part as shall be limited or permitted by the rules [and regulations] of the board, the candidate shall pay to the board [a sum of \$25 as] an examination fee; provided, where the candidate is eligible to take only that part of the examination pertaining to engineering fundamentals [he] the candidate shall pay [\$20.] the appropriate fee. The fee paid shall not be refundable; provided, if a candidate after having paid the fee is unable for any reason beyond [his] the candidate's control to

participate in the examination, the board may extend the time of the candidate's participation to the next regular examination date and credit the candidate the amount of the fee paid.

(b) Upon qualifying for registration, the applicant shall pay [the sum of \$15 as] a registration fee, and upon receipt thereof by the board shall thereupon be registered as a professional engineer, architect, land surveyor or landscape architect, and shall receive a certificate thereof from the board signed by the chairman and secretary.

Every person registered who, as an individual or as a member of a firm or corporation, conducts an office or other place of business for the practice of [his] the profession shall display [his] the original certificate in a conspicuous manner, in [his] the principal office or place of business.

(c) Every certificate of registration expires on April 30 of each even-numbered year following its issuance and becomes invalid after that date unless renewed. The secretary of the board [shall mail], at least one month in advance of the date of expiration of the certificate of registration, shall mail a notice to every person registered [hereunder] under this section giving the date of expiration and the amount required for the renewal thereof. The fee for renewal [shall be \$30 for each renewal certificate.] and all other fees in this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Certificates of registration which have expired for failure to pay renewal fees on or before the date [hereinabove] required in this subsection may be reinstated within one year of the expiration date upon payment of a fee [of \$60] for each renewal certificate."

SECTION 72. Section 465-1, Hawaii Revised Statutes, is amended to read as follows:

"§465-1 Definitions. As used in this chapter:

[(1)] "Board" means the board of certification for practicing psychologists.

[(2)] "Director" means the director of commerce and consumer affairs.

[(3)] "Application fee", "renewal fee", "temporary permit fee", and "examination fee" mean the fees in the schedule set forth in section 465-12.]

[(4)] "Psychologist" means a person who engages in the practice of psychology as [hereinafter] defined[.] in this section.

[(5)] A person practices "psychology" who performs any professional service which consists of, requires, and is limited to the application of psychological principles, techniques, and instruments for the purpose of assessment, diagnosis, and treatment of significant behavioral, emotional, and mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association; and for the purpose of the assessment, diagnosis, and rehabilitation of organic brain syndromes."

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SECTION 73. Section 465-12, Hawaii Revised Statutes, is amended to read as follows:

"§465-12 Fees; disposition. [The fees] Application, examination, certificate, renewal, and temporary permit fees required by this chapter, none of which are refundable, shall be as [follows:

- (1) Application fee \$10
- (2) Examination fee \$75
- (3) Certificate fee \$15
- (4) Renewal fee \$30
- (5) Temporary permit fee \$15]

provided in rules adopted by the director pursuant to chapter 91.

All fees shall be paid to the director [of commerce and consumer affairs] and shall be deposited with the director of finance to the credit of the general fund."

SECTION 74. Section 466-8, Hawaii Revised Statutes, is amended to read as follows:

"§466-8 Fees. (a) All fees required by this chapter or rules adopted by the board shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

[(a) Examination.] (b) An [applicant] application for admission to the examination described in section 466-5(d) shall [pay a fee with such application for admission in such amount as the board shall prescribe by rule.] be accompanied by the application and examination fees. The board may [also] prescribe by rule the terms and conditions upon which an applicant who is unable to attend [such] the examination may receive a credit in the amount of the fee paid toward a subsequent examination.

[(b) Issuance of certificate or registration.] (c) An [applicant] application for the issuance of a certificate of certified public accountant under section 466-5(a) or a registration of public accountant under section 466-6(a) shall [pay a fee with such application in such amount as the board shall prescribe by rule.] be accompanied by a certificate or registration fee.

[(c) Renewal of certificate or registration.] (d) An applicant for the renewal of a current certificate of certified public accountant under section 466-5(a) or for the renewal of a registration of public accountant under section 466-6(a) shall pay a fee [of \$30] biennially in each odd-numbered year on or before December 31. An applicant for the renewal of a certificate of certified public accountant or for the renewal of a registration of public accountant which is not current under [the provisions of] this chapter or under the laws of this State theretofore existing shall pay a fee with [such] the application for renewal in an amount equal to twice the amount of the fees which the applicant would

have paid had [he] the applicant timely renewed [such] the certificate or registration since the date it was last current.

[(d) Biennial permits to practice.] (e) An [applicant] application for the issuance of a biennial permit to practice under section 466-7(a) [who is in the practice of public accountancy in his own name as a sole proprietor, or as a partner of a partnership in the practice of public accountancy, or as a shareholder of a corporation in the practice of public accountancy,] shall [pay a fee with such application in the amount of \$30.] be accompanied by the application and permit to practice fees. [All other applicants for the issuance of a biennial permit to practice shall pay a fee of \$10.

(e) Temporary permits to practice.] (f) An [applicant] application for the issuance of a temporary permit to practice under section 466-7(b) shall [pay a fee with such application in the amount of \$30.] be accompanied by the application and temporary permit to practice fees.

(g) Any person requesting the board to proctor the certified public accountant examination for another state shall pay a proctoring fee.

[(f) Disposition of fees.] (h) All fees and other [monies] moneys received by the board pursuant to [the provisions of] this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.”

SECTION 75. Section 468E-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The [board] director of commerce and consumer affairs shall prescribe[, and publish in a manner it deems appropriate,] fees [in amounts determined by the board] by rules adopted pursuant to chapter 91 for the following purposes:

- (1) Application for [examination;] license;
- (2) Initial licensing;
- (3) Renewal of licensing; and
- (4) Late renewal payment monthly penalty.”

SECTION 76. Section 471-8, Hawaii Revised Statutes, is amended to read as follows:

“§471-8 **Examinations; qualifications of applicants.** (a) No person shall be licensed to practice veterinary medicine unless [he] the person has passed an examination of [his] the qualifications and fitness to engage in [such] the practice of veterinary medicine given by the board of veterinary examiners. Before any applicant shall be eligible for examination under this chapter [he] the applicant [shall], at least thirty days before the date set for examination, shall file an application in [such] the form as shall be prescribed by the board, pay to the department of commerce and consumer affairs [an examination fee of \$100,]

application and examination fees, and furnish proof satisfactory to the board that[.] the applicant:

- (1) [He is] Is eighteen or more years of age and of good moral character; and
- (2) [He is] Is a graduate of a veterinary college meeting all the standards established by the American Veterinary Medical Association, or, in lieu thereof, has actively practiced for ten out of twelve years immediately preceding the date of application in a state having standards for licensing comparable to those in [the] this State.

(b) Examinations shall be given by the board twice each year except when there are no applications pending. They shall be composed of written and oral questions and practical demonstrations. The same questions shall be given to each person being examined during a particular examination. The subject matter of the examinations shall embrace the subjects and demonstrations of practical ability normally covered in the curricula of American Veterinary colleges.

The requirements imposed by this section shall not be a bar to renewal, reissuance, or restoration of any license issued prior to May 13, 1949."

SECTION 77. Section 471-9, Hawaii Revised Statutes, is amended to read as follows:

"**§471-9 Licenses.** (a) [Initial licenses.] Except as [hereafter] provided[,]
in this section, the board of veterinary examiners shall issue a license upon payment of a license fee to engage in the practice of veterinary medicine to all persons meeting the requirements of this chapter.

(b) [Expiration.] All licenses issued by the board shall expire on June 30 of each even-numbered year next following the date of issuance.

(c) [Renewal.] Every veterinarian shall pay [to the treasurer of the board biennially] a biennial renewal fee in each even-numbered year [between the first and last days of June a renewal fee in such amount as shall, from time to time, be established by the board. The board shall establish the renewal fee upon the basis of the amount of funds necessary for the administration of this chapter. The fee, however, shall not exceed \$30]. The payment of the renewal fee shall entitle the veterinarian to renewal of [his] the license.

(d) [Renewal after lapse.] Any holder of an expired license may be reinstated as a veterinarian upon payment of the renewal fee and a penalty [of \$25.] fee.

(e) [Military service.] Notwithstanding any other provision [hereof], no license shall expire while the holder thereof is serving on active duty in the armed forces of the United States during any emergency declared by the President or Congress and six months after the termination thereof."

SECTION 78. Section 471-12, Hawaii Revised Statutes, is amended to read as follows:

“§471-12 Fees, expenditures[.]; establishment of fees by rule. (a) Members of the board of veterinary examiners shall serve without pay, except that any member, while engaged in performing official duties away from the island on which [he] the member resides, shall be reimbursed for the actual expenses incurred by [him] the member in the performance of [such] official duties.

(b) All fees received by the board shall be [deposited] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 79. Section 459-12, Hawaii Revised Statutes, is repealed.

SECTION 80. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 81. This Act shall take effect upon its approval.

(Approved April 13, 1984.)

Notes

1. Should be underscored.
2. Edited pursuant to HRS §23G-16.5.

ACT 8

S.B. NO. 1951-84

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-45, Hawaii Revised Statutes, is amended to read as follows:

“§142-45 Using other’s brand prohibited; penalty. It shall be unlawful for any person other than the registered owner to use any brand or mark that has been duly registered or reregistered according to law and for which the registration or reregistration has not expired, except by the consent of the registered owner, his personal representatives or assigns. Any person violating this section shall be fined [5\$] \$200 for each animal so branded or marked.”

SECTION 2. Section 142-46, Hawaii Revised Statutes, is amended to read as follows:

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"§142-46 Using unregistered brand prohibited; penalty. It shall be unlawful for any person to use any brand that has not been duly registered according to law. Any person using any brand that has not been duly registered according to law shall be fined not less than \$1 nor more than [\$5] \$200 for each animal so branded."

SECTION 3. Section 142-47, Hawaii Revised Statutes, is amended to read as follows:

"§142-47 Obliterating brand; penalty. Any person who obliterates any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, although without felonious intent, shall be fined not more than [\$20] \$200 for every brand or mark so obliterated."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 13, 1984.)

ACT 9

S.B. NO. 2157-84

A Bill for an Act Relating to Pest Control Operators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 460J-1, Hawaii Revised Statutes, is amended by amending the definitions of "pest control operator", "efficacy and safety data", and "nonchemical pest control device", to read as follows:

"(5) "Pest control operator" means any person [licensed by the board to practice pest control and who does so for compensation as a business, regardless of the cost of the job.] who personally or through others offers to undertake or practice, or holds oneself out as being able to undertake or practice, or does undertake or practice pest control.

[[(8)]] "Efficacy and safety data" means data from experiments conducted by qualified scientists to determine the efficacy and safety of a nonchemical pest control device.

[[(9)]] "Nonchemical pest control device" means any device that¹ purports to eliminate or control pests by attracting, repelling, or killing pests without the use of chemicals. Such a device shall include, but not be limited to, electromagnetic waves, sound and ultrasound, cosmic, and other waves."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 13, 1984.)

Note

1. The word "that" added by revisor.

ACT 10

H.B. NO. 530

A Bill for an Act Relating to Employees in Certain Exempt Positions in the Planning and Development Office of the Department of Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to grant civil service status to five employees occupying positions in the department of agriculture, which were authorized by Act 218, Session Laws of Hawaii 1973, part III, section 8, for agricultural planning and marketing purposes.

SECTION 2. The employees currently not in civil service in the planning and development office of the department of agriculture, who occupy the positions of chief planner, agricultural planner I, agricultural planner II, agricultural development specialist, and a secretary, as authorized, established, and funded pursuant to Act 218, Session Laws of Hawaii 1973, part III, section 8, shall be converted to permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, and shall be accorded all of the rights, benefits, and privileges of other civil service employees, including seniority, prior service credit, and vacation and sick leave credits. Positions held by employees converted to civil service status shall be assigned by the director of personnel services to appropriate classes in the position classification plan, and the employees shall be paid in accordance with the salary ranges to which the classes are assigned; provided that employees receiving a salary above the minimum rate may be paid at the rate higher than the minimum rate but not exceeding the highest pay rate in the appropriate salary range.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 13, 1984.)

A Bill for an Act Relating to Certain Employees in the Division of Milk Control of the Department of Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend section 157-12, Hawaii Revised Statutes, to provide civil service status to certain employees in the division of milk control of the department of agriculture.

SECTION 2. Section 157-12, Hawaii Revised Statutes, is amended to read:

“§157-12 Assistants and employees; appointment, duties, and compensation. The [commissioner] board of agriculture may [, with the approval of the board,] employ[, by special contract or otherwise,] and remove such assistants and employees as may be necessary to carry out this chapter and amendments thereto, prescribe their powers and duties, and fix their compensation. They shall [not] be subject to chapters 76 and 77[.]; provided that the commissioner shall not be subject to chapters 76 and 77.”

SECTION 3. The employees in the division of milk control, other than the commissioner, currently not in civil service and occupying permanent positions shall be converted to permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, and shall be accorded all the rights, benefits, and privileges attributable thereto. Those rights, benefits, and privileges shall include seniority, prior service credits, vacation and sick leave credits, and other rights, benefits, and privileges accorded employees with civil service status. Positions held by employees converted to civil service status shall be assigned by the director of personnel services to appropriate classes in the position classification plan, and the employees shall be paid in accordance with the salary ranges to which the classes are assigned; provided that employees receiving a salary above the minimum rate may be paid at a rate higher than the minimum rate but not exceeding the highest pay rate in the appropriate salary range.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 13, 1984.)

ACT 12

S.B. NO. 1512-84

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 322-8, Hawaii Revised Statutes, is amended to read:

“§322-8 [Civil] Administrative penalties. (a) Any person who violates this part or any rule adopted by the department of health to implement this part shall be fined not more than \$10,000 for each separate offense. Any action taken to [impose or] collect the penalty provided for in this subsection shall be considered a civil action.

(b) The director of health may impose by order the [civil] administrative penalty specified in this section. Factors to be considered in imposing the [civil] administrative penalty include the nature and history of the violation and of any prior violation, and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty and the burden of proof to the contrary is on the violator. For any judicial proceeding to recover the [civil] administrative penalty imposed, the director of health need only show that notice was given, a hearing was held, or the time granted for requesting a hearing has expired without such a request, the [civil] administrative penalty was imposed, and that the penalty remains unpaid.

(c) In addition to the penalty under subsection (a), the director of health may order the person who has committed the violation to correct the violation at the person's own expense.”

SECTION 2. Section 328-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) The director may establish rules as necessary for the enforcement of this part[, including but not limited to, the establishment and enforcement of tolerance levels]. The rules shall be adopted pursuant to chapter 91[.]; except that the director may, without regard to chapter 91, establish tolerance levels and regulatory or action levels by reference to the provisions of the regulations or guidelines of the United States established in 40 CFR Part 180 and the United States Food and Drug Administration Compliance Policy Guides as the regulations or guidelines become effective at any time or from time to time.”

SECTION 3. Section 328-25, Hawaii Revised Statutes, is amended to read:

“§328-25 Director's right [of inspection,] to inspect, require record keeping, demand [for] records, [and seizure;] seize, and conduct hearings. (a)

The director of health or any of his agents may in the performance of their duties:

- (1) Enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, storage-room, drug store, or laboratory, or any place where they have probable cause to believe that food, drugs, devices, cosmetics, or consumer commodity as defined by this part are made, prepared, sold, or kept, exhibited or offered for sale, and open any cask, tub, bottle, case, or package containing or supposed to contain any such food, drug, device, cosmetic, or consumer commodity, and examine or cause to be examined the contents thereof; [and]
- (2) Adopt rules pursuant to chapter 91 requiring a person to keep records relating to the manufacture, distribution, or sale of food, drugs, devices, cosmetics, or consumer commodity; and
- [(2)] (3) Demand a person to provide records or copies of records relating to the manufacture, distribution, or sale of food, drugs, devices, cosmetics, or consumer commodity which the director has probable cause to believe is adulterated or misbranded; provided that no confidential information concerning secret processes or methods of manufacture secured pursuant to this section by any person who is an official or employee of the department of health within the scope¹ and course of the person's employment shall be disclosed by the person except as it relates directly to the adulteration or misbranding of a commodity, and then, only in connection with the person's official duties and within the scope and course of the person's employment. Any officer, employee, or agent of the department acquiring confidential information concerning secret processes or methods of manufacture who divulges information except as authorized in this section or as ordered by a court or at an administrative hearing regarding an alleged adulteration or misbranding or of any rule or regulation or standard adopted pursuant to this part shall be guilty of a misdemeanor.

(b) If any food, drug, device, cosmetic, or consumer commodity is found to be adulterated or misbranded within the meaning of this part and the owner or person in charge thereof refuses to comply with the instructions of the director or any of his agents for the proper disposal thereof, the food, drug, device, cosmetic, or consumer commodity shall be liable to seizure. The director or any of his agents shall affix to the article or articles a tag or other appropriate marking, giving notice that the article is, or is suspected of,² being adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the director or any of his agents or by the court

or judge having jurisdiction over such matters. Upon the request of the director or any of his agents, made to such court, the court shall order and direct that the food, drug, device, cosmetic, or consumer commodity be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine whether or not it is adulterated or misbranded.”

SECTION 4. Section 328-30, Hawaii Revised Statutes, is amended to read:

“[]§328-30[] Civil] Administrative penalties. (a) Any person who violates this part or any rule adopted by the department pursuant to this part shall be fined not more than \$10,000 for each separate offense. Any action taken to [impose or] collect the penalty provided for in this subsection shall be considered a civil action.

(b) In addition to any other administrative or judicial remedy provided by this part, or by rules adopted pursuant to this part, the director may impose by order the [civil] administrative penalty specified in this section. Factors to be considered in imposing the [civil] administrative penalty include the nature and history of the violation and of any prior violation, and the opportunity, difficulty, and history of corrective action. For any judicial proceeding to recover the [civil] administrative penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the [civil] administrative penalty was imposed, and that the penalty remains unpaid.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

Notes

1. Prior to amendment “of” appeared here.
2. Underscoring missing.

ACT 13

S.B. NO. 1517-84

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-52, Hawaii Revised Statutes, is amended to read:

“§321-52 Powers, duties, and activities of the department. [The department of health shall have, among other powers necessary] To carry out the purposes of this part, the [power:] department of health may:

- (1) [To establish] Establish and administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, which shall provide for developing, extending, and improving services, especially in rural areas, for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after-care; extend and improve any such services; cooperate with medical, health, nursing, and welfare groups and organizations and with any agency of the State charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; and, cooperate with the department of education for the education of such children;
- (2) [To formulate] Formulate and administer a detailed plan for the purposes specified in paragraph (1) above; and adopt such rules pursuant to chapter 91 as may be necessary or desirable for the administration of the plan and of this part. Any plan shall include provisions for:
 - (A) Financial participation by the State in the funds appropriated by the Congress of the United States under [Title V of the Social Security Act (49 Stat. 631-633 (1935), 42 U.S.C. Secs. 711-715);] applicable federal legislation;
 - (B) Administration of the plan by the department;
 - (C) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan;
 - (D) Maintenance of records and preparation of reports of services rendered as shall be directed by the Secretary of Health and Human Services of the United States;
 - (E) Carrying out the purposes specified in paragraph (1) above; and
 - (F) Cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in the State charged with administering state laws providing for vocational rehabilitation of physically handicapped children;
- (3) [To cooperate] Cooperate with the federal government through its appropriate agency or instrumentality in developing, extending, and improving such services and receive and expend all funds made available to the department by the federal government, the State, or

- its political subdivisions, or from any other sources, including private donations, for such purposes[.]; and
- (4) Take all other actions necessary or desirable to carry out the purposes of this part."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 14

S.B. NO. 1525-84

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-123, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Administrative use. Moneys credited to the account of this State in the unemployment trust fund by the [secretary] Secretary of the [treasury] Treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature[.]; provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which: (1) specifies the purposes for which the moneys are appropriated and the amounts appropriated therefor, (2) limits the period within which the moneys may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve- month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (A) the aggregate of the amounts credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, during the same twelve-month period and the [twenty-four] thirty-four preceding twelve-month periods exceeds (B) the aggregate of the amounts obligated pursuant to this subsection and charged against the amounts credited to the account of this State during such [twenty-five] thirty-five twelve-month periods. For the purposes of this subsection, amounts which are obligated for administration or paid out for benefits shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during a twelve-month period specified herein may be charged against any amount

ACT 15

credited during such twelve-month period earlier than the [twenty-fourth] thirty-fourth preceding such period.

Moneys credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this chapter pursuant to this subsection.

Moneys appropriated for the payment of expenses of administration pursuant to this subsection shall be requisitioned as needed for the payment of obligations incurred under the law appropriating the moneys and, upon requisition, shall be deposited in the employment security administration fund from which such payments shall be made. Moneys so deposited shall, until expended, remain a part of the unemployment compensation fund and, if it will not be expended within one week after it is withdrawn from the unemployment trust fund, shall be returned at the earliest practical date to the [secretary] Secretary of the [treasury] Treasury of the United States for credit to this State's account in the unemployment trust fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 15

S.B. NO. 1532-84

A Bill for an Act Relating to Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-12, Hawaii Revised Statutes, is amended to read:

"[[]§206E-12[]] Dedication [of] for public facilities as condition [of] to development. The authority shall establish rules requiring dedication for public facilities of land or facilities, or cash payments in lieu thereof, by developers as a condition of developing real property pursuant to the community development plan. Where state and county public facilities dedication laws, ordinances, or rules differ, the provision for greater dedication shall prevail."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 16

S.B. NO. 1560-84

A Bill for an Act Relating to the Board of Medical Examiners.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association or the American Medical Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
- (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;

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- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary; [or]
- (13) Violation of chapter 329, uniform controlled substance act, or any regulation promulgated thereunder[.]; or
- (14) Failure to report disciplinary action taken against the licensee in another jurisdiction."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 17

S.B. NO. 1565-84

A Bill for an Act Relating to Collection Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 443A-1, Hawaii Revised Statutes, is amended by amending the definition of "collection agency" to read as follows:

- "(2) "Collection agency" means any person who by himself or through others offers to undertake or holds himself out as being able to undertake or does undertake to collect for another person, claims or money due on accounts or other forms of indebtedness for a commission, fixed fee, or a portion of the sums so collected.
- (3) "Collection agency" includes:
 - (A) Any person using any name other than his own in collecting his own claims with the intention of conveying, or which tends to convey the impression that a third party has been employed;
 - (B) Any person who, in the conduct of his business for a fee, regularly repossesses any merchandise or chattels for another;
 - (C) Any person who regularly accepts the assignment of claims or money due on accounts or other forms of indebtedness and brings suits upon such assigned claims or money due on accounts or other forms of indebtedness in his own name, provided that any such suits shall be initiated and prosecuted by an attorney who shall have been appointed by the assignor[.]; provided, further, that any person who by himself or through others offers to undertake or holds himself out as

being able to undertake or does undertake to collect for another person the amounts due under any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation, mortgage loans and agreements of sale, whether or not such collection servicing agent receives any compensation or other consideration for his services, shall fall within the purview of chapter 454D."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 18

S.B. NO. 1675-84

A Bill for an Act Relating to Psychology.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§431- Psychological service coverage. Notwithstanding any provision of any individual or group accident and sickness insurance policy, whenever the policy provides reimbursement or payment for any service which is within the lawful scope of practice of a psychologist licensed in this State, the person entitled to benefits or performing the service shall be entitled to reimbursement or payment, whether the service is performed by a licensed physician or licensed psychologist."

SECTION 2. Chapter 433, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§433- Psychological service coverage. Notwithstanding any provision of any individual or group hospital or medical service plan contract whenever the contract provides reimbursement or payment for any service which is within the lawful scope of practice of a psychologist licensed in this State, the person entitled to benefits or performing the service shall be entitled to reimbursement or payment, whether the service is performed by a licensed physician or licensed psychologist."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

ACT 19

(Approved April 14, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 19

S.B. NO. 1707-84

A Bill for an Act Relating to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

“§171-2 Definition of public lands. “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended[.];
- (2) Lands set aside pursuant to law for the use of the United States[.];
- (3) Lands being used for roads and streets[.];
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws[.];
- (5) Lands to which the University of Hawaii holds title[, and];
- (6) Lands to which the Hawaii housing authority in its corporate capacity holds title[.]; and
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

A Bill for an Act Relating to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The authority may adopt rules pursuant to chapter 91, and may amend the same from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district.

Bonds issued to provide funds to finance public facilities shall be secured solely by the real properties benefited or improved [or], the assessments thereon, or [both.] by the revenues derived from the program for which the bonds are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the authority. The bonds shall be issued according and subject to the provisions of the rules adopted pursuant to this section. Any other law to the contrary notwithstanding, in assessing real property for public facilities, the authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an [assessment] assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof.

The rules adopted pursuant to this section may include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.”

SECTION 2. Section 206E-6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

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“(e) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities, financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of [interest and principal of the bonds issued for such public facilities until such bonds have been paid.] the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against such fund [or in case of a premium received on the sale of the bonds,] it shall be credited to and become a part of the Hawaii community development revolving fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 21

S.B. NO. 1811-84

A Bill for an Act Relating to the Hawaii Community Development Authority.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-2, Hawaii Revised Statutes, is amended by amending the definition of “project cost” to read as follows:

- “(5) “Project cost” means the total of all costs incurred by the authority in carrying out all undertakings which it deems reasonable and necessary for the development of a project including but not limited to: studies[.]; surveys[.]; plans[, and]; specifications[.]; architectural, engineering, or any other development related services[.]; acquisition of land and any improvement thereon[.]; site preparation and development[.]; construction[.]; reconstruction[, and]; rehabilitation; the necessary expenses in administering the chapter; and the cost of financing the project; and relocation costs [as provided in chapter 111].”

SECTION 2. Section 206E-10.5, Hawaii Revised Statutes, is amended to read as follows:

“[[]§206E-10.5[]] **Relocation.** (a) Any provision of law to the contrary notwithstanding, the authority shall adopt rules pursuant to chapter 91 to insure the appropriate relocation within or outside the district of persons, families, and businesses displaced by governmental action within the district. The rules may include, but are not limited to, the establishment and operation of a central relocation office; relocation payments for actual moving costs; fixed payments for losses suffered; payments for replacement housing or business locations; and other similar relocation matters.

(b) The authority shall provide relocation assistance to persons, families, and businesses within the district that are displaced by private action; provided that displacement is a direct result of a development approved by the authority, and that such assistance shall not include any form of direct monetary payments. Temporary relocation facilities within or outside the district may be made available to displacees provided that those displaced by government action are afforded priority to such facilities.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 22

S.B. NO. 1871-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-4, Hawaii Revised Statutes, is amended to read as follows:

“[[]§514A-4[]] **Status of apartments.** Each apartment, together with the common interest appertaining thereto, shall for all purposes constitute real property and may be individually conveyed, leased, or encumbered and be the subject of ownership, possession, or sale and [of all types of juridic acts inter vivos or mortis causa,] for all other purposes be treated as if it were sole and entirely independent of the other apartment or apartments in the property of which it forms a part, and the corresponding individual titles and interests shall be recordable.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

ACT 23

(Approved April 14, 1984.)

ACT 23

S.B. NO. 2182-84

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-107, Hawaii Revised Statutes, is amended to read as follows:

"§88-107 Interest. The board of trustees shall annually [allow regular interest on the mean amount for the preceding year in the annuity savings fund and the post retirement fund. The amounts so allowed shall be credited annually thereto by the board from interest and other earnings on the moneys of the system. Any additional amount required to meet regular interest on the mean amount for the preceding year in the pension accumulation fund shall be paid by the State and counties and any excess of earnings over such amount required shall be deductible from the amounts to be contributed by the State and counties.] allocate the interest and other earnings of the system to the funds of the system, as follows:

- (1) The annuity savings fund shall be credited with the amount of regular interest credited to members' accounts;
- (2) The mean amount of the preceding year in the post retirement fund shall be credited with interest at the investment yield rate applied in actuarial valuations; and
- (3) The remaining investment earnings, if any, shall be credited to the pension accumulation fund.

The amounts to be contributed to the pension accumulation fund by the State and counties shall be reduced by any investment earnings in excess of the investment yield rate applied in actuarial valuations. Any additional amount required to meet the investment yield rate for the preceding year shall be paid by the State and counties, and shall be credited to the pension accumulation fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 24

S.B. NO. 2242-84

A Bill for an Act Relating to the Mooring of Commercial Vessels in Small Boat Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-21, Hawaii Revised Statutes, is amended to read as follows:

“§266-21 Purpose and use of state small boat harbors. State small boat harbors are constructed, maintained, and operated for the [primary purpose] purposes of (1) [promoting] recreational boating activities [and], (2) the landing of fish[.], and (3) commercial vessel activities. For the purpose of this section “recreational boating activities” means the utilization of watercraft for sports, hobbies, or pleasure[.] and “commercial vessel activities” means the utilization of vessels for activities or services provided on a fee basis. To implement [this purpose,] these purposes, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities [or], the landing of fish, or commercial vessel activities shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities. Vessels used for purposes of recreational boating activities which are also the principal habitation of the owner shall occupy no more than fifteen per cent of the respective total moorage space available as of July 1, 1976 at the Ala Wai and Keehi boat harbors. Notwithstanding the [primary purpose] purposes of small boat harbors, moorage for commercial vessels [is] and commercial vessel activities are not permitted in [a state small boat harbor, except that on Oahu moorage for commercial vessels is permitted in a state small boat harbor only where there is no commercial harbor within a distance of three statute miles.] the Ala Wai or Keehi boat harbors. The department may adopt rules pursuant to chapter 91 to further implement this section.”

SECTION 2. Statutory material to be repealed is bracketed. New materials is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 25

H.B. NO. 1895-84

A Bill for an Act Relating to the Dispensing of Drugs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 328-16, Hawaii Revised Statutes, is amended to read as follows:

“§328-16 Drugs limited to dispensing on prescription. (a) A prescription drug [intended for use by man which (1) is a habit-forming drug to which section 328-15(4) applies; or (2) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or (3) is limited by an approved application under section 505 of the Federal Act or section 328-17 to use under the professional supervision of a practitioner licensed by law to administer the drug,] shall be dispensed only if its label bears the name and address of the seller, the serial number and date of the prescription or of its filling, the name of the practitioner if the seller is not the practitioner, the name, strength, and quantity of the drug, the date the potency of the drug expires if the date is available from the manufacturer or principal labeler, and the specific directions for use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation “take according to written instructions” may be used if separate written instructions for use are actually issued with the drug, but in no event shall the notation “take as directed,” referring to oral instructions, be considered acceptable. If any prescription for the drug does not indicate the times it may be refilled, if any, a pharmacist shall not refill that prescription unless the pharmacist is subsequently authorized to do so by the practitioner. The act of dispensing a drug other than a professional sampling contrary to this subsection shall be deemed to be an act which results in a drug being misbranded while held for sale.

(b) In addition to the requirements enumerated in subsection (a), a prescription drug shall be dispensed only:

- [(A) upon] (1) Upon a written prescription of a practitioner licensed by law to administer the drug[,]; or
- [(B) upon] (2) Upon an oral prescription of the practitioner, provided the seller promptly [records in his books] reduces to writing the oral prescription in full, the [kind,] name, strength, and quantity of the drug, [and] directions for use, the date the oral prescription is received, the name of the seller, the name and code designation of the prescriber, [and] the name and address of the person for whom the drug is prescribed or the name of the owner of the animal for which the drug is prescribed, the department of health assigning [such] the code designation to [such] that subscriber, and [such books] those prescriptions or records being subject at all times to the inspection of the department or its agents[,]; or
- (3) By a practitioner, other than a pharmacist, to an ultimate user; provided that the practitioner promptly records in the practitioner’s

records the prescription in full, the name, strength, and quantity of the drug and directions for its use, the date the drug is dispensed, the name and address of the person for whom the drug is prescribed or the name of the owner of the animal for which the drug is prescribed, and those records being subject at all times to the inspection of the department or its agents; or

- [(C) by] (4) By refilling any [such] written or oral prescription if [such] that refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist[, and (D) its label bears the name and place of business of the seller, the serial number and date of the prescription, the name of the practitioner, the name, strength, and quantity issued of the drug, the date the potency of the drug expires, if the date is available from the manufacturer or principal labeler, and the specific directions for use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation "take according to written instructions" may be used, if separate written instructions for use are actually issued with the drug, but in no event shall the notation "take as directed," referring to oral instructions, be considered acceptable. If any prescription for such drug does not indicate the times it may be refilled, if any, such prescription may not be refilled unless the pharmacist is subsequently authorized to do so by the practitioner. The act of dispensing a drug contrary to this subsection shall be deemed to be an act which results in a drug being misbranded while held for sale].

(c) For the purposes of this section, a "prescription drug" is a drug intended for use by a person which:

- (1) Is a habit-forming drug to which section 328- 15(4) applies;
- (2) Because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; or
- (3) Is limited by an approved application under section 505 of the Federal Act or section 328-17 to use under the professional supervision of a practitioner licensed by law to administer the drug."

[(b)] (d) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer the drug shall be exempt from the requirements of section 328-15 (except paragraphs (1), (9), (11), and (12), and the packaging requirements of paragraphs (7) and (8)), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber

and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in the prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of [subsection (a)] subsections (a) and (b) of this section.

[(c)] (e) The director of health, may, by regulation, remove drugs subject to [section] sections 328-15(4) and [section] 328-17 from the requirements of [subsection] subsections (a) and (b) of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued thereunder may also, by regulations issued by the director, be removed from the requirements of [subsection] subsections (a) and (b) of this section.

[(d)] (f) A drug which is subject to [subsection] subsections (a) and (b) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "Caution: Federal law prohibits dispensing without prescription," or "Caution: State law prohibits dispensing without prescription." A drug to which [subsection] subsections (a) and (b) of this section [does] do not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

[(e)] (g) Nothing in this section shall be construed to relieve any person from any requirement, prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or [marihuana] marijuana as defined in the applicable [Federal and State] federal and state laws relating to narcotic drugs and [marihuana.] marijuana.

SECTION 2. Section 329-38, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) No controlled substance in Schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In an emergency situation, [such] those drugs may be dispensed upon oral prescription of a practitioner, provided that promptly thereafter the prescription is reduced to writing by the practitioner and filed by the pharmacy; or
- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in Schedule II shall affix to the package a label showing the date of dispensing, the name, strength, and quantity issued of the drug, the dispensing practitioner's name and address, the name of the patient, the date the potency of the drug expires if that date is available from the manufacturer or principal labeler, directions for

use, and cautionary statements, if any, contained in [such] the prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in Schedule II may be refilled.

(b) No controlled substance in Schedule III or IV may be dispensed without a written or oral prescription of a practitioner, except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner in dispensing a controlled substance in Schedule III and IV shall affix to the package a label showing the date of dispensing, the name, strength, and quantity issued of the drug, the dispensing practitioner's name and address, the name of the patient, the date the potency of the drug expires if that date is available from the manufacturer or the principal labeler, directions for use, and cautionary statements, if any, contained in [such] the prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. [Such] Those prescriptions may not be filled or refilled more than three months after the date thereof or be refilled more than two times after the date of the prescription unless renewed by the practitioner."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 26

H.B. NO. 2139-84

A Bill for an Act Relating to the Mooring of Commercial Catamarans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-21, Hawaii Revised Statutes, is amended to read as follows:

"§266-21 Purpose and use of state small boat harbors. State small boat harbors are constructed, maintained, and operated for the primary purpose of promoting recreational boating activities and the landing of fish. For the purpose of this section "recreational boating activities" means the utilization of watercraft for sports, hobbies, or pleasure. To implement this purpose, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities or the landing of fish shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities. Vessels used for purposes of

recreational boating activities which are also the principal habitation of the owner shall occupy no more than fifteen per cent of the respective total moorage space available as of July 1, 1976 at the Ala Wai and Keehi boat harbors. Notwithstanding the primary purpose of small boat harbors, moorage for commercial vessels is permitted in a state small boat harbor, except that on Oahu moorage for commercial vessels is permitted in a state small boat harbor only where there is no commercial harbor within a distance of three statute miles[.]; provided that commercial catamarans, for which valid permits or registration certificates have been issued by the department of transportation which allow the catamarans to operate upon Waikiki shore waters for hire, may be permitted to moor in Ala Wai boat harbor at facilities leased for commercial purposes. The department may adopt rules pursuant to chapter 91 to further implement this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 27

H.B. NO. 2192-84

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, As Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 207, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read:

"(a) The department is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than forty acres of agriculture lands or lands used for aquaculture purposes; or (2) not less than one hundred nor more than five hundred acres of first-class pastoral lands; or (3) not less than two hundred [and] fifty nor more than one thousand acres of second-class pastoral lands; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; or (5) not more than one acre of any class of land to be used as a residence lot; provided that in the case of any existing lease of a farm lot in the Kalaniana'ole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the department; provided further that a lease granted to any lessee may include two detached farm lots or aquaculture lots, as the case may be, located on the same island and within a reasonable

distance of each other, one of which, to be designated by the department, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural, pastoral, or aquaculture lot, as the case may be, as provided in this section[; provided further that the department may designate the location of the homesite on residence lots less than 10,000 square feet]. The department is authorized to develop and construct multi-family units for housing native Hawaiians. The method of disposition, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of such multi-family units shall be prescribed by rules adopted by the department pursuant to chapter 91."

SECTION 2. The amendments made by this Act are declared to be severable, and if any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1984.)

ACT 28

S.B. NO. 285

A Bill for an Act Relating to Statute of Limitations for Motor Vehicle Reparatons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-36, Hawaii Revised Statutes, is amended to read as follows:

"§294-36 Statute of limitations. (a) No suit shall be brought on any contract providing no-fault benefits or any contract providing optional additional coverage more than:

- (1) Two years from the date of the motor vehicle accident upon which the claim is based; or
- (2) Two years after the last payment of no-fault or optional additional benefits; or
- (3) Two years after the entry of a final order in arbitration; [whichever is the last to occur.] or

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- (4) Two years after the entry of a final judgment in, or dismissal with prejudice of, a tort action arising out of a motor vehicle accident, where a cause of action for insurer bad faith arises out of the tort action; whichever is the last to occur.

(b) No suit arising out of a motor vehicle accident shall be brought in tort more than:

- (1) Two years after the date of the motor vehicle accident upon which the claim is based; or
- (2) Two years after the date of the last payment of no-fault or optional additional benefits; [whichever is the later.] or
- (3) Two years after the date of the last payment of workers' compensation or public assistance benefits arising from the motor vehicle accident; whichever is the last to occur."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 29

S.B. NO. 1503-84

A Bill for an Act Relating to Gasohol.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clarify a statutory definition.

SECTION 2. Section 237-27.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) As used in this section, "gasohol" means a gasoline and alcohol liquid fuel mixture consisting of at least ten volume per cent denatured biomass-derived ethanol [(biomass derived)] commercially usable as a fuel to power automobiles or other motorized vehicles."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 30

S.B. NO. 1507-84

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 39-13, Hawaii Revised Statutes, is amended to read:

“§39-13 Refunding bonds authorized. (a) For the purpose of refunding the present and future bonded indebtedness of the State, or bonds issued by any department, board, agency, instrumentality, commission, or corporation of the State, the director of finance, with the approval of the governor but without further authorization of the legislature, may from time to time issue general obligation refunding bonds of the State [with which] to pay[, call and redeem] or provide for the payment of all or any part of the outstanding bonds of the State or bonds issued by any department, board, agency, instrumentality, commission, or corporation of the State, at or before the maturity or the redemption date thereof, and may include various series and issues of such outstanding bonds in a single issue of refunding bonds and may include refunding bonds and bonds otherwise to be issued under this part in a single issue of bonds. [Refunding bonds may be issued to pay principal, any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded.]

The interest rate or rates of the refunding bonds shall not be limited by the interest rate or rates borne by any of the bonds to be refunded thereby.

The refunding bonds may be issued and delivered at or at any time before the maturity or redemption date of the bonds to be refunded that the director of finance, with the approval of the governor, determines to be in the best interest of the State. The refunding bonds shall be issued in accordance with the provisions of sections 39-4 to 39-6[, both inclusive,] and [sections] 39-8 to 39-13, [both inclusive, of this part,] and all of the provisions of [said] such sections shall be applicable to such refunding bonds; provided that[, notwithstanding the provisions of section 39-6 as to the sale of bonds issued under this part, in the discretion of the governor and director of finance, refunding bonds may be [exchanged at not less than the par value of such refunding bonds for an equal amount of the bonds to be refunded under the provisions of this part at not more than the par value of the bonds to be refunded.] sold for not less than ninety-five per cent of the principal amount thereof. [In the event of the sale of refunding bonds, the proceeds therefor]

Proceeds of the sale of refunding bonds shall be applied solely to the payment of the principal of, and redemption premium, if any, and interest on the bonds to be refunded under the provisions of this part[.] and to the payment of all costs of issuance of such refunding bonds and interest accrued on such refunding bonds to the date of delivery thereof and payment therefor.

Pending the time the proceeds derived from the sale of refunding bonds issued [hereunder] under this section are required for the purposes for which they were issued, the director may, upon authorization or approval of the governor, invest such proceeds in obligations of, or obligations unconditionally guaranteed by, the United States of America or in savings accounts, time deposits, or certificates of deposit of any bank or trust company within or without the State, to the extent that such savings accounts, time deposits, or certificates of deposits are collaterally secured by a pledge of obligations of, or obligations unconditionally guaranteed by, the United States of America, and to further secure such refunding bonds the State may, through the director of finance, enter into a contract with any bank or trust company, within or without the State, with respect to the safekeeping and application of the proceeds of such refunding bonds, and the safekeeping and application of the earnings of such investment. All bonds so refunded and redeemed by the issue and sale [or issue and exchange] of refunding bonds shall be [cancelled.] canceled.

(b) The bonds which may be refunded under [the provisions of] this section include bonds issued under this part, [any] bonds payable or secured in whole or in part from the general fund of the State, bonds payable or secured in whole or in part by any taxes or by the taxing power of the State, and [any] bonds which must be included when determining the power of the legislature to authorize the issuance of bonds and other evidences of indebtedness of the State. Nothing in this section shall require or be deemed to require the director of finance to elect to redeem or prepay bonds being refunded, or, if the director elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates.

However, without express authorization by the legislature, no bonds shall be issued under this part to refund bonds, notes, or other instruments of indebtedness payable solely from and secured solely by the revenues, or user taxes, of a public undertaking, improvement, or system, unless the bonds to be refunded were issued prior to November 5, 1968 and are payable from both the revenues and the user taxes of the undertaking, improvement, or system for which they were issued. In the event of the issuance under this part of bonds to refund bonds payable solely from and secured solely by the revenues or user taxes, or combination of both, of a public undertaking, improvement, or system, reimbursement shall be made to the general fund from such revenues or taxes, or combination thereof, for the payment of all of the principal and interest of the refunding bonds.

(c) Notwithstanding any other law to the contrary, for purposes of the statements required to be prepared by part IV of chapter 39, the director of finance may determine the manner of allotting the debt service on the general obligation refunding bonds among the purposes for which the proceeds of the bonds being refunded were allotted."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 31

S.B. NO. 1950-84

A Bill for an Act Relating to Special Purpose Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 39A-211, Hawaii Revised Statutes, is amended to read as follows:

“[[]§39A-211[]] **Expiration.** No new special purpose revenue [bond] bonds shall be issued under this part after [June 30, 1984.] December 31, 1991.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved April 16, 1984.)

ACT 32

S.B. NO. 2183-84

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-96, Hawaii Revised Statutes, is amended to read as follows:

“§88-96 **Rights of members separated from service.** (a) Any member who ceases to be an employee and who has less than five years of credited service shall, upon application to the board of trustees, be paid all [his] of the member's accumulated contributions and [his] the member's membership shall thereupon terminate, provided that interest shall not be credited to an individual's account nor shall [his] the membership continue after the fourth full year following the calendar year in which [his] the member's employment terminates, after which time the system, as soon thereafter as possible, shall return the member's contributions[.]; provided that any such member shall not be paid the member's accumulated contributions:

- (1) If the member becomes an employee again within fifteen calendar days from the date the member ceased to be an employee; or

- (2) If, at the time the application for return of accumulated contributions is received by the board of trustees, the member has become an employee again.

(b) Any member having five or more years of credited service who ceases to be an employee shall, upon application to the board of trustees, be paid all of the member's accumulated contributions[.]; provided that any such member shall not be paid the member's accumulated contributions:

- (1) If the member becomes an employee again within fifteen calendar days from the date the member ceased to be an employee; or
 (2) If, at the time the application for return of accumulated contributions is received by the board of trustees, the member has become an employee again.

If the contributions are not withdrawn by the member within four calendar years following the calendar year in which [his] the member's employment terminates, the member shall be deemed to have established vested benefit status and shall be eligible for the service retirement benefit in effect at the time of the member's separation from service, payable in accordance with the provisions thereto and the contributions shall not be withdrawn by the member thereafter.

(c) In case of the death of any former member after the termination of service, [his] the former member's accumulated contributions shall be payable to [his] the former member's estate or to such person as [he] the former member has nominated by written designation duly executed and filed with the board.

(d) After July 1, 1961, there shall be included in any payment of accumulated contributions made pursuant to this section, the sums contributed by the member to the post retirement fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 33

S.B. NO. 2199-84

A Bill for an Act Relating to the Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$5.28] \$5.72 for each child who has not attained

the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved April 16, 1984.)

ACT 34

H.B. NO. 1432

A Bill for an Act Relating to Factory-built Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 359L, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 35

H.B. NO. 1788-84

A Bill for an Act Relating to Itinerant Vendors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 470, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 36

H.B. NO. 2193-84

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 221, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (f) to read:

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“(f) Water systems in the exclusive control of the department shall remain under its exclusive control[.]; provided that the department may negotiate an agreement to provide for the maintenance of the water system and the billing and collection of user fees. If any provision or the application of [such] that provision is inconsistent with [the provision] provisions contained [herein,] in this section, this section shall control.

Water systems include all real and personal property together with all improvements to such systems acquired or constructed by the department for the distribution and control of [such] water for domestic or agricultural use.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

ACT 37

H.B. NO. 2195-84

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide all native Hawaiians with access to licenses for lots in which lands are leased to theaters, garages, service stations, markets, stores, and other mercantile establishments. Presently, only lessees of the department or organizations formed and controlled by lessees are eligible to receive such licenses. Native Hawaiians who are not lessees are therefore restricted under present provisions. It is the intent that through this amendment all native Hawaiians would be eligible to receive licenses issued under this program.

SECTION 2. Section 207 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (c) to read:

“(c)(1) The department is authorized to grant licenses as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The department is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section¹ [to:] for:

(A) Churches, hospitals, public schools, post offices, and other improvements for public purposes; and

(B) Theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by [lessees of the

department] native Hawaiians or by organizations formed and controlled by [said lessees] native Hawaiians).

(2) The department is also authorized, with the approval of the governor, to grant licenses to the United States for terms not to exceed five years, for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges; provided that any such license may be extended from time to time by the department, with the approval of the governor, for additional terms of three years.

(3) Any license issued under this subsection shall be subject to such terms, conditions, and restrictions as the department shall determine and shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation or maintenance activities."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 1984.)

Note

1. Prior to amendment "," appeared here.

ACT 38

S.B. NO. 139

A Bill for an Act Relating to Transfer of Parks Between the State and the Counties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subject to the governor of the State and the mayor of the city and county of Honolulu entering into a written agreement providing for the transfer, the estate, right, title, and interest, and any appurtenance thereto, of the State relating to Honolulu Stadium State Park, Sans Souci State Recreation Area, and Aina Moana State Recreation Area shall be vested in the city and county of Honolulu, and the estate, right, title, and interest, and any appurtenance thereto, of the city and county of Honolulu relating to Kawainui Marsh, Kahana Bay Beach Park, Hanauma Bay, Kuilei Cliffs/Diamond Head Beach Park shall be vested in the State.

SECTION 2. No personnel or equipment shall be included in the transfer authorized by Section 1 of this Act.

No officer or employee of the State or county having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other

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employee benefit or privilege as a consequence of this Act. In the event that an office or position held by an officer or employee is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State or the county, as the case may be, with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department, the governor, or the mayor, as the case may be.

SECTION 3. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or the city and county of Honolulu or any agency thereof to the holders of any bond issued by the State or the city and county of Honolulu or by any agency thereof, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 39

S.B. NO. 784

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-92.1, Hawaii Revised Statutes, is amended to read as follows:

"§11-92.1 Election proclamation: establishment of a new precinct. (a) The chief election officer shall issue a proclamation whenever a new precinct is established in any representative district. The chief election officer shall provide a suitable polling place for each precinct. Schools, recreational halls, park facilities, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelter for this purpose whenever public buildings are not available and shall cause [such] these polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

(b) No change shall be made in the boundaries of any precinct later than 4:30 p.m. on the [ninetieth] tenth day prior to the close of filing for an election."

SECTION 2. Section 11-92.2, Hawaii Revised Statutes, is amended to read as follows:

"§11-92.2 Multiple polling place sites. (a) The chief election officer may establish multiple polling place sites for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precincts involved.

(b) No multiple polling place site shall be established later than 4:30 p.m. on the [ninetieth] tenth day prior to the close of filing for an election."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 40

S.B. NO. 1520-84

A Bill for an Act Relating to a Statewide Transition to Work System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that because many students, upon leaving high school, are poorly prepared to enter the job market, special preparation to assist in the transition from school to work is needed. All students need varying degrees of assistance as they begin the complex process of career decision-making and attempt to master job-seeking and job-keeping skills.

In addition, there are many high school students in the State whose ability to make career and employment decisions is impeded by poor health, limited psycho-social well-being, and diminished productive capacity. Often these students reside in communities characterized by high rates of school absenteeism, unemployment, and poverty, and they may lack access to traditional support systems of family, school, and church. Unless assisted through a planned system of coordinated services, they will continue to lack trust in the environment, have poor self-esteem, lack personal and career goals, and experience difficulty in realizing their full potential.

The legislature therefore finds that a unified but flexible system of transition services is necessary to meet the basic career and employment needs of all students as they move from school to work. This system should include services such as counseling, career information, career exploration activities, work experience, employment assistance, and other services necessary to prepare individuals to make career and employment decisions. Such a system also must

operate with the recognition that social, economic, or health problems must be overcome before career and employment planning can take place. The legislature further finds that the effective use of resources and provision of services can best be met by a collaborative effort between educators, human services personnel, and labor market experts.

The legislature finds that the career resource centers of the department of labor and industrial relations have demonstrated an ability to assist students of Kaimuki and Waialua high schools in the areas of career and employment counseling, career information, and occupational exploration. The career resource centers have helped individuals better assess themselves, research occupations, set realistic career goals, and develop job-seeking and job-keeping skills.

The legislature also finds that the quick kokua program of the department of labor and industrial relations has effectively met the needs of Farrington and Waianae high school students by providing on-campus career and employment counseling as well as health and social services in a preventive, caring, and organized manner. Quick kokua has better enabled the targeted youths effectively to identify and address their multiple and complex problems, to cope with changing situations, and to make realistic and responsible decisions about their lives and careers.

The legislature further finds that there is a need to link these various program models into a single inter-agency system that will allow service flexibility and program variation as it addresses the basic career and employment planning needs of all students. Such a linkage will ensure the development of a concerted effort, maximum resource usage, and improved coordination of the overall planning and delivery of transition services.

The purpose of this Act, therefore, is to establish a unified system of transition centers initially including the quick kokua and career resource center programs.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER STATEWIDE TRANSITION TO WORK SYSTEM

§ -1 **Findings and purpose.** There is general consensus that all students require varying degrees of assistance in realistically planning for their future careers and lives. It is further recognized that unless these individuals are assisted in making the transition from adolescence to adulthood at whatever level they begin, repeated discouraging experiences may result in poor self-esteem and negative attitudes and may lead to years of indecision and unrealized potential.

The purpose of this chapter, therefore, is to provide for the establishment within the department of labor and industrial relations of a coordinated system of transition to work centers. This system will incorporate the quick kokua program with that of the career resource centers to develop a comprehensive and flexible spectrum of services capable of addressing the unique needs of the State's high school students.

§ -2 Transition center system; establishment. There is established a statewide transition to work system in the department of labor and industrial relations, to be known as the transition center system, consisting of but not limited to the quick kokua program and the career resource centers presently established within the department of labor and industrial relations. Transition centers shall be established and maintained based on equitable consideration of the State's urban, rural, and neighbor island needs.

§ -3 Powers and duties. The transition center system shall be responsible for the continued delivery of the integrated on-campus services formerly provided by the quick kokua program and career resource centers. These services shall include career, employment, social, and health counseling and assistance as appropriate, and shall be directed at assisting designated high school students in successfully completing the transition from school to work or to further training and education."

SECTION 3. All employees currently assigned to the quick kokua program or career resource centers shall be transferred to the transition center system established by this Act without regard to chapters 76 and 77, Hawaii Revised Statutes; provided that employees assigned to the quick kokua program and detached from the department of education or the department of health, and the respective positions they occupy, shall remain with and not be transferred from their respective departments.

SECTION 4. The department of labor and industrial relations may establish positions and hire necessary personnel for the purposes of this chapter without regard to chapters 76 and 77, Hawaii Revised Statutes.

SECTION 5. The field or program operations under the system established by this Act shall continue to be located on the campuses of the high schools being served by the quick kokua program and the career resource center program immediately prior to the effective date of this Act; provided that each of the schools or other sites at which the program is implemented in the future shall provide a physical facility which is optimally located or readily accessible to clients and other support; and provided further that the physical facility and support shall be without charge.

SECTION 6. All funds, appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal

property made, used, acquired, or held by the department of labor and industrial relations, department of education, and department of health relating to the quick kokua program or to the career resource center program shall be transferred to the transition center system with the functions to which they relate; provided that any of these items, including but not limited to funds and personnel records held by the department of health or the department of education in connection with the employees employed by those respective departments but on detached assignment to the quick kokua program immediately prior to the effective date of this Act, shall be retained by those respective departments as necessary to effectuate the provisions of this Act.

SECTION 7. The director of the department of labor and industrial relations shall prepare and submit to the legislature, prior to the regular session of 1985, a report on the status and progress of the transition center system, including any problems encountered in establishing the program as required by this Act, estimates of future program costs and alternative methods of delivery, and any recommendations requiring legislative action necessary to complete the implementation of the intent and purposes of this Act.

SECTION 8. Part IX of chapter 362, Hawaii Revised Statutes, is repealed.

SECTION 9. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 41

S.B. NO. 1540-84

A Bill for an Act Relating to Time Sharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514E, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§514E- Consultant review of developer filing. The director may contract with private consultants in connection with the review of the filing required of time share developers pursuant to section 514E-10(a), the cost of which shall be borne by the developer; provided that the consultant review required under this section shall not affect the scope of the review under section 514E-27 which the director may request for filings which encompass alternative arrangements for purchaser protection. The consultant shall be asked to thoroughly review the filing for the purpose of examining its compliance with the requirements of this chapter and any rule adopted by the director, including the documentation and other materials provided in connection therewith. Upon

completing the review, the consultant shall provide a written analysis of the filing and an opinion of the nature and extent to which it complies with this chapter and the rules adopted pursuant thereto. The director may adopt rules pursuant to chapter 91 to further delineate the duties of the consultant in undertaking the review and analysis required under this section.

§514E- Voting rights for time share units. Voting rights for any apartment units designated or sold as time share units shall be as provided in rules adopted by the director of the department of commerce and consumer affairs; provided the rules shall seek to provide reasonable protection for persons who own partial interests in or rights to occupy the units.”

SECTION 2. Section 514E-27, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) Whenever the director is asked to accept alternative arrangements pursuant to this section, the director may contract with an attorney or attorneys and may contract with any other private consultants which the director or the attorney deems necessary or advisable, in connection with the review of the proposed arrangements for protecting purchasers[. Such attorney shall be asked to thoroughly review the time share plan for the purpose of examining the purchaser protections, including the documentation used in connection therewith and the disclosure thereof in the developer’s disclosure statement. Upon completing the review, the attorney shall provide a written analysis of the proposal and an opinion as to the nature and extent of the protections which the proposal affords purchasers against blanket liens. The cost of retaining such attorneys and other consultants shall be borne by the developer.]; provided that the cost of retaining such attorneys and other consultants shall be borne by the developer. The attorney shall be asked to thoroughly review the time share plan for the purpose of examining the purchaser protections, including the documentation used in connection therewith and the disclosure thereof in the developer’s disclosure statement. Upon completing the review, the attorney shall provide a written analysis of the proposal and an opinion as to the nature and extent of the protections which the proposal affords purchasers against blanket liens. The review of alternative arrangements pursuant to this section shall be in addition to the consultant review required under section 514E- for all filings which are submitted by time share developers.”

SECTION 3. Section 514E-2.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the director determines, after notice and a hearing, that an acquisition agent or sales agent has violated any provision of this chapter or any rule or regulation adopted by the director pursuant to this chapter, the director

may suspend or revoke the [license] registration of such person as [a real estate broker, real estate salesman,] an acquisition agent, or sales agent.”

SECTION 4. Section 514E-10, Hawaii Revised Statutes, is amended to read as follows:

“§514E-10 [Filing] Registration required; developer, [sales agent,] acquisition agent, sales agent, [exchange agent, and] plan manager and exchange agent. (a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director[,], pursuant to the time specified in this chapter, or the development is exempt from filing[.], and the time share plan to be offered by the developer is accepted by the director for registration under this chapter.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall [file] register under this chapter by filing with the director a statement setting forth the time sharing plan or plans for which it is providing prospective purchasers, its address, the telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the acquisition agent is not a natural person, the name of the responsible managing employee. All acquisition agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any acquisition agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The acquisition agent shall furnish evidence that (i) a bond or blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any violations by the acquisition agent of any solicitation ordinances[,], or other regulations governing the use of the premise or premises in which time sharing plan or plans are promoted; or (ii) that the acquisition agent is currently licensed pursuant to chapter 467 as a real estate salesman or a real estate broker and his activities as such are covered by the real estate recovery fund established pursuant to chapter 467.

(c) A sales agent (including the developer[,], if it is also the sales agent) shall [file] register under this chapter by filing with the director a statement setting forth the time sharing plan or plans that it is selling, its address, telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the sales agent is not a natural person, the name of the responsible managing employee and [any special escrow accounts set up] the escrow account required under section 514E-16 for the deposit and collection of purchasers’ funds. [All sales agents not licensed under chapter 467 shall be approved by the director.] The director shall not approve any sales agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The sales agent shall furnish evidence that [(i) a bond or blanket bond of \$10,000 has been placed

with a surety company or file a cash bond with the director to cover any violations by the sales agent; or (ii) that] the sales agent is currently licensed pursuant to chapter 467 as a real estate salesman or real estate broker and his activities as such are covered by the real estate recovery fund established pursuant to chapter 467.

(d) A plan manager (including the developer if it is also the plan manager)[,] shall [file] register under this chapter by filing with the director a statement setting forth the time sharing plan or plans that it is managing, its principal office address, telephone number, and responsible managing employee. The plan manager shall furnish evidence that a blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any default of the plan manager and any of its employees of their duties and responsibilities.

(e) An exchange agent (including the developer if it is also an exchange agent) shall [file] register under this chapter by filing with the director a statement setting forth the time [share] sharing plan or plans for which it is offering exchange services, its principal office address and telephone number, and designate its responsible managing employee.

(f) If the acquisition agent[, sales agent,] or plan manager [are] is under the control of, a subsidiary of, or an affiliate of the developer, the bonds or blanket bonds can be consolidated and set in the amount of \$20,000; provided that there is a disclosure of the affiliation.

(g) Any [filing] registration required in this section shall be renewed on December 31 of each odd-numbered year; provided that this shall not relieve the person required to [file] register from the obligation to notify the director promptly of any material change in any information submitted to the director, nor shall it relieve the developer of its obligation promptly to file amendments or supplements to the disclosure statement and to supply the same to purchasers of time share interests."

SECTION 5. Section 514E-11.2, Hawaii Revised Statutes, is amended to read as follows:

"§514E-11.2¹ Power to enjoin. (a) Whenever it shall appear to the director, upon complaint or otherwise, that any person has engaged in, is engaged in, or is about to engage in any act, practice or transaction in violation of this chapter or the rules of the director adopted pursuant thereto, the director may conduct an investigation of the matter. Whenever the director finds that such person has engaged in, is engaged in, or is about to engage in any act, practice or transaction in violation of this chapter or the rules of the director adopted pursuant thereto, the director may, in addition to any other remedies, bring suit in the name and on behalf of the State against such person and any other person or persons concerned in, or in any way participating in, or about to

participate in such act, practice or transaction in violation of this chapter or rules adopted pursuant thereto, to enjoin such person and such other person or persons from continuing such act, practice or transaction, or engaging therein, or doing any act or acts in furtherance thereof or in violation of this chapter or rules adopted pursuant thereto. [The remedies under this section are in addition to any other remedies provided by this chapter or by law.]

(b) The court shall give priority to the expeditious processing of suits under this section.

(c) The remedies under this section are in addition to any other remedy provided by this chapter or by law."

SECTION 6. Section 514E-12, Hawaii Revised Statutes, is amended to read as follows:

"§514E-12 Civil penalty; suspension or revocation of registrations. (a) If the director determines, after notice and a hearing, that any person has violated any provision of this chapter or any rule adopted by the director pursuant to this chapter, or that a person has authorized, directed, ordered, or personally participated in any violation of this chapter or any rule adopted by the director pursuant to this chapter, the director [may issue a cease and desist order requiring such person to cease and desist from that conduct. The cease and desist order may also require such person to comply with the provisions of this chapter and the director's rules and orders and take affirmative action to correct conditions resulting from that conduct or failure to comply.

(b) If the director determines, after notice and a hearing, that any person has failed to comply with a cease and desist order issued by the director or has concealed, diverted, or disposed of any funds or assets of any person in any manner impairing the rights of purchasers of time share interest, then the director:

- (1) May fine such person a sum of not less than \$500 nor more than \$10,000 for each separate offense. Each date of violation shall constitute a separate offense;
- (2) May issue an order suspending or revoking the registration of such person and the right of such person to offer or sell time share interests. For the first offense, the director shall suspend the registration of such person and the right of such person to offer or sell time share interests for a period of thirty days. For the second offense, the director shall revoke permanently the registration of such person and the right of such person to offer or sell time share interests.];
- (1) May fine the person a sum of not less than \$500 nor more than \$10,000 for each separate offense; provided that each date of violation shall constitute a separate offense; and

(2) May issue an order suspending or revoking the registration of the person and the right of the person to offer or sell time share interests or otherwise engage in time share activities.

(b) If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order the director may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the director whenever possible by telephone or otherwise shall give notice to the person of the proposal to issue a temporary cease and desist order. Every temporary cease and desist order shall be effective for a period of ten days and shall include in its terms a provision that a hearing will be held promptly to determine whether or not it shall remain permanently in effect following the expiration of the ten-day period; provided that, if the person subject to the temporary cease and desist order is granted a continuance of the hearing, the temporary cease and desist order shall remain in effect throughout the period of such continuance. If the director determines that any person has failed to comply with a temporary cease and desist order issued by the director, then the director may subject such person to the penalties set forth in subsections (a)(1) and (a)(2) of this section."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 8. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Notes

1. Brackets missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 42

S.B. NO. 1541-84

A Bill for an Act Relating to Time Sharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§514E- Time share administrator; other personnel. The director shall appoint a time share administrator, who shall not be subject to chapters 76 and 77, to administer this chapter. The administrator shall be responsible for the performance of the duties conferred upon the director by this chapter.

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The director shall employ, subject to chapters 76 and 77, such other administrative and clerical assistants as the director deems necessary for the proper administration of this chapter."

SECTION 2. The department of commerce and consumer affairs is authorized to expend such funds as may be necessary to fund the positions authorized by Section 1 of this Act out of moneys from its appropriation for the fiscal year beginning July 1, 1984, and ending June 30, 1985.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 1984.

(Approved April 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 43

S.B. NO. 1553-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-47, Hawaii Revised Statutes, is amended to read as follows:

"[§514A-47] **Cease and desist orders.** In addition to its authority under section 514A-48, whenever the real estate commission has reason to believe that any person is violating or has violated [this chapter,] sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68,¹ 514A-69, and 514A-85 or the rules of the commission adopted pursuant thereto, it shall issue and serve upon such person a complaint stating its charges in that respect, containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of the complaint. The person so complained of has the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring the person to cease and desist from the violation of the law charged in the complaint. If upon the hearing the commission is of the opinion that this chapter has been or is being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on the person an order requiring the person to cease and desist from such violations. The person complained of may, within thirty days after service upon him of the report or order, obtain a review thereof in the appropriate circuit court."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. "514-68" in original.

ACT 44

S.B. NO. 1555-84

A Bill for an Act Relating to the Practice of Veterinary Medicine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 471-2, Hawaii Revised Statutes, is amended to read as follows:

"§471-2 License required. No person shall practice veterinary medicine, either gratuitously or for pay, or shall offer to so practice, or shall announce or advertise [himself], publicly or privately, as prepared or qualified to so practice, or shall append the letters "Dr." or affix any other letters to [his] the person's name with the intent thereby to imply that [he] the person is a practitioner of veterinary medicine, without having a valid unrevoked license obtained from the board of veterinary examiners; provided, that nothing in this chapter prevents or prohibits the following:

- (1) Any person from gratuitously treating animals in case of emergency;
- (2) The owner of any animal or animals and the owner's full-time, regular employees from caring for and treating any animals belonging to [such] the owner;
- (3) Any student enrolled in any veterinary school or college or any employee of a veterinarian from working under the direct supervision of a veterinarian;
- (4) Any person from practicing veterinary medicine in the employ of the United States government while engaged in the performance of [his] the person's official duties;
- (5) Any person licensed to practice veterinary medicine in any state from practicing [here] in this State when [meeting] in actual consultation with veterinarians of this State [in consultation]; provided that the person licensed from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State;

- (6) Any farmer from giving to another farmer the assistance customarily given in the ordinary practice of animal husbandry[.];
- (7) Any applicant who meets the licensing requirements of practicing veterinary medicine under a veterinarian by permit; provided the applicant applies for and takes the first examination scheduled by the board. A permit shall not be renewed."

SECTION 2. Section 471-4, Hawaii Revised Statutes, is amended to read as follows:

"§471-4 Officers. The board of veterinary examiners shall select a chairman[, a secretary, and a treasurer. The offices of secretary and treasurer may be combined in one person.

The chairman of the board] who shall preside at all meetings and in [his] the chairman's absence the members present shall select a chairman pro tem.

[The secretary shall, subject to the direction of the board, make and keep all records and record books required to be kept by the board. The records and record books of the board shall be prima facie evidence of the matters therein recorded in any court of law.

The treasurer shall receive and issue receipts for all fees collected.]"

SECTION 3. Section 471-6, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 471-8, Hawaii Revised Statutes, is amended to read:

"§471-8 Examinations; qualifications of applicants. No person shall be licensed to practice veterinary medicine unless [he] the person has passed an examination of [his] the qualifications and fitness to engage in [such] the practice of veterinary medicine given by the board of veterinary examiners. Before any applicant shall be eligible for examination under this chapter [he] the applicant shall, at least [thirty] sixty days before the date set for examination, file an application in such form as shall be prescribed by the board, pay to the department of commerce and consumer affairs an examination fee of \$100, and furnish proof satisfactory to the board that[:] the applicant:

- (1) [He is] Is eighteen or more years of age [and of good moral character]; and
- (2) [He is] Is a graduate of a veterinary college meeting all the standards established by the American Veterinary Medical Association, or, in lieu thereof, has actively practiced for ten out of twelve years immediately preceding the date of application in a state having standards for licensing comparable to those in the State.

Examinations shall be given by the board twice each year except when there are no applications pending. They shall be composed of written [and oral] questions [and practical demonstrations.], a part of which shall consist of those

aspects of veterinary medicine common to the State. The same questions shall be given to each person being examined during a particular examination. The subject matter of the examinations shall embrace the subjects and demonstrations of practical ability normally covered in the curricula of American [Veterinary] veterinary colleges. The form of the examination shall be determined by the board.

The requirements imposed by this section shall not be a bar to renewal, reissuance, or restoration of any license issued prior to May 13, 1949.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 45

S.B. NO. 1562-84

A Bill for an Act Relating to the Department of Commerce and Consumer Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this bill is to authorize the attorneys hired by the department of commerce and consumer affairs to exercise authority granted to the attorney general and to responsible attorneys for the various counties under Section 92-51, Hawaii Revised Statutes, by permitting the attorneys to withhold documents and records, when appropriate, which are within the custody and/or control of Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs.

Also, the various boards and commissions within the department of commerce and consumer affairs have imposed monetary fines as appropriate relief in certain disciplinary cases. The amount of the fines imposed by the board or commission has been determined by the specific statutory provision which provides for the imposition of fines. The purpose of the amendatory language is merely to clarify the boards' and commissions' authority to impose fines as appropriate relief in disciplinary cases. The amendments provided herein should not undermine the legislature's recognition of the existence of the boards' and commissions' authority to impose fines even prior to the effective date of the amendment.

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (g) to read:

“(g) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investigation, prosecution, and hearing of complaints regarding any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder. In representing the State in bringing any action to enjoin unlicensed activities, the department of commerce and consumer affairs’ attorneys shall be empowered to exercise all authority granted to the attorney general and to the director of consumer protection under sections 487-12, 487-14, 480-3.1, 480-15, 480-15.1, 480-20(c), and 480-22, as such sections now exist and as they may be subsequently amended. The attorneys shall also be empowered to exercise all authority granted to the attorney general and to the responsible attorneys of the various counties under section 92-51 in all cases involving documents and records within the custody or control of the regulated industries complaints office.”

SECTION 3. Section 92-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
 - (2) Correcting the work done in providing services;
 - (3) Revocation of the licensee’s permit or license;
 - (4) Suspension of the licensee’s permit or license; [and]
 - (5) Imposition of a fine; and
- [(5)] (6) Any other reasonable means to secure relief as determined by the board.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

A Bill for an Act Relating to Parking for Disabled Persons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to establish parking privileges for persons with mobility limitations. The Act further establishes uniform criteria of eligibility for those parking privileges. The legislature recognizes that parking for disabled persons is uncoordinated, as substantiated by the study conducted by the commission on the handicapped, and that multiple and often conflicting eligibility requirements and permits exist in the State and its political subdivisions. This Act provides for uniform parking privileges for disabled persons throughout the State.

SECTION 2. Chapter 291, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . PARKING FOR DISABLED PERSONS

§291- Definitions. As used in this part, the following terms have the following meanings:

“Certificate of disability” means a medical statement issued by a licensed practicing physician, either in private practice or with a governmental agency, which verifies that a person is a disabled person.

“Disabled person” means any person:

- (1) Who has lost the use of one or both lower extremities;
- (2) Who is so severely disabled as to require the use of a mechanical device, including a wheelchair, a walker, crutches, or a brace to aid mobility;
- (3) Who is restricted by a lung disease to such an extent that the person’s forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the person’s arterial oxygen tension (PO₂) is less than 60 mm/hg on room air at rest;
- (4) Who has a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
- (5) Who has a diagnosed disease or disorder, including a severe arthritic, neurological, or orthopedic impairment, which creates a severe mobility limitation.

§291- Issuance of placard. Each county may issue one distinguishing placard to each disabled person who so requests and presents a certificate of

disability. The placard shall be designed, fabricated, and sold at cost to the counties by the department of transportation. The county may charge a fee to cover its costs.

§291- Nontransferability; penalty. The placard shall not be used by anyone other than the disabled person to whom it is issued unless it is being used in connection with the transportation of a disabled person. An unauthorized person using the placard shall be guilty of a parking violation and subject to the penalties provided by law. A placard may be revoked for any unauthorized use.

§291- Display of placard. The placard shall be prominently displayed in the disabled person's vehicle so as to be visible through the front windshield.

§291- Parking privileges. Any vehicle displaying the placard issued under this part shall be permitted to park in any metered or unmetered parking space designated for the use of disabled persons in accordance with law.

§291- Rules. The department of transportation may adopt rules under chapter 91 to carry out the purposes of this part, including rules for the issuance and renewal of placards, the replacement of lost or stolen placards, and the design of the placard."

SECTION 3. This Act shall take effect on January 1, 1985.

(Approved April 18, 1984.)

ACT 47

S.B. NO. 1704-84

A Bill for an Act Relating to Real Property Leases.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 519-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) For purposes of this section:

(1) "Cooperative housing corporation" means a corporation:

(A) Having one and only one class of stock outstanding;

(B) Each of the stockholders of which is entitled solely by reason of the shareholder's ownership of stock in the corporation, to occupy for dwelling purposes the dwelling unit in a building, owned or leased by the corporation, and situated on land leased by the corporation; [and]

(C) No stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation[.]; and

(D) Eighty per cent or more of the gross income for the taxable year in which the taxes and interest described in 26 U.S.C. section 216(a) are paid or incurred is derived from tenant stockholders.

- (2) "Offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, and underground utility cables, constructed or placed in a subdivision or development off the land intended for occupancy, which improvements are to be used in common by occupants of all lands adjoining such improvements or by occupants of all lands for whose benefit the improvements have been constructed or placed.
- (3) "Onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefit of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.
- (4) "Owner's basis" means the value of the lessor's leased fee interest in the property that would apply if such interest were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by any method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land.
- (5) "Original percentage rate" means the percentage derived by dividing the annual lease rent established for the first fixed rent period under the lease by the fair market value of the land as of the first day of the first fixed rent period."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 48

S.B. NO. 1718-84

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

ACT 49

SECTION 1. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to Part I to read as follows:

“§356-33 Housing finance revolving fund. (a) There is created a housing finance revolving fund to be administered by the authority. Notwithstanding the provisions of sections 36-21 and 359G-10, the proceeds in the fund shall be used for long-term and other special financings of the authority and for the necessary expenses in administering this chapter.

(b) All moneys received and collected by the authority, not otherwise pledged or obligated nor required by law to be placed in any other special fund, shall be deposited in the housing finance revolving fund.”

SECTION 2. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 49

S.B. NO. 1726-84

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) When in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may appoint one or more district family judges for each judicial circuit. In addition, within any circuit, the chief justice may designate any district judge of the district court to act as a district family judge within that circuit; [such] the judge when so designated shall exercise the powers of a district family judge appointed pursuant to this section. The chief justice may also designate, within any circuit, a district family judge appointed pursuant to this section to act as a district judge, and the judge when so appointed shall have all the powers of a district judge appointed pursuant to section 604-2.

The chief justice may assign any district judge or district family judge of any circuit to serve temporarily in either the district court or the district family court of any other circuit.

The district family courts shall hold sessions at such places and as often as the family court judge or the senior family court judge, if there is more than one, of the judicial circuit shall prescribe.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 50

S.B. NO. 1732-84

A Bill for an Act Relating to the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

“§571-14 **Jurisdiction; adults.** The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by [his] the child's parent or guardian or by any other person having [his] the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-904, 709-905, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife; [or]
 - (C) Any violation of a domestic abuse protective order issued pursuant to chapter 586[.]; or
 - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.

- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 51

S.B. NO. 1733-84

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 232-8, Hawaii Revised Statutes, is amended to read as follows:

“§232-8 [Designation of judges of the tax appeal court.] Judges; assignment of cases. [(a) There shall be a tax appeal court with a judge of the circuit court of the first circuit to be designated by the chief justice to act as first judge of the tax appeal court until his successor is similarly designated.

(b) A judge of the circuit court of the first circuit shall be designated by the chief justice as second judge of the tax appeal court, who shall thereupon be authorized to act as judge of the tax appeal court in case of the disqualification, disability, or absence from the city and county of Honolulu of the first judge of the tax appeal court.

(c) In case of the disqualification, disability, or absence from the city and county of Honolulu of both such judges, the chief justice may designate some other circuit judge to perform the duties of judge of the tax appeal court during such disqualification, disability, or absence.] The administrative judge of the circuit court of the first circuit, subject to the direction of the chief justice as provided by section 601- 2(b)(2)(B), shall assign all tax appeal court matters to such judge or judges of the circuit court of the first circuit as shall be deemed appropriate.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 52

S.B. NO. 1734-84

A Bill for an Act Relating to Costs and Fees for Service of Process.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Sheriff’s or police officer’s fees:

- (1) For serving any criminal summons, warrant, attachment, or other criminal process, \$15 effective July 1, 1980.
- (2) For serving any civil summons, warrant, attachment, or other civil process, [\$6 effective July 1, 1978 and \$7 effective July 1, 1979.] \$10 effective July 1, 1984.
- (3) For every copy of an attachment and inventory of the property attached, served upon the defendant, \$1.50.
- (4) For serving any execution, 12 cents for every \$1 collected up to \$50, and 7 cents for every \$1 over \$50.
- (5) For serving subpoena or garnishee summons, [\$5.] \$7.
- (6) For every mile of travel, more than one, in serving any process, [18] 20 cents; provided that (A) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof; (B) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services, more than the mileage for the entire trip; and (C) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service, who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.”

SECTION 2. Section 607-8, Hawaii Revised Statutes, is amended to read as follows:

"§607-8 Sheriff's or serving or levying officer's fees in circuit court, intermediate appellate court, or supreme court. For all necessary travel in making such service, per mile for every mile more than one [18] 20 cents provided that:

- (1) No such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof;
- (2) Where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services more than the mileage for the entire trip; and
- (3) As far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police, or other serving officer upon the island of service who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith \$15 effective July 1, 1980.

For serving civil summons or any other civil process, except a subpoena or a garnishee summons, for each person served therewith [\$7 effective July 1, 1979.] \$10 effective July 1, 1984.

For serving subpoena or garnishee summons, for each person [\$5.] \$7.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State \$2.

For serving any execution or other process for the collection of money, for every dollar collected up to \$500 5 cents.

And for every dollar over \$500. 2-1/2 cents.

All fees paid to any printer for publishing an advertisement of the sale of any property;

For every bill of sale. \$1.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in such deed \$5.¹

For drawing any bond required by law. \$1.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court \$1.

Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments, and collection of judgments, together with all costs incurred after judgment rendered, not included in the judgment, shall, in all courts of the State, be collected in addition to the sum directed to be levied and collected in the writ.

Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police (1) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage, or other expenses collected by such subordinate, or (2) if and so long as such sheriff or chief of police is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county by a nonsalaried subordinate of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage, and expenses be paid into a police benefit fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect July 1, 1984.

(Approved April 18, 1984.)

Note

1. Should not be underscored.

ACT 53

S.B. NO. 1757-84

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that during the summer of 1983 there has been much discussion nationally and in Hawaii concerning the use of the worldwide unitary method of taxing multinational companies. This method allocates and apportions income, costs, expenses, and property between Hawaii and other taxing jurisdictions, including foreign countries. The principle was

upheld in Container Corporation of America v. The Franchise Tax Board, ____ U.S. ____, 51 Law Week 4987 (1983), as it was imposed by the State of California. Many foreign countries have objected to this methodology of taxation and certain multinational corporations that now do a large amount of business in states which use this method are considering relocating or not locating in those states. Due to gains or losses in other countries, during good times such a method might mean more tax money to a state while during bad economic times it might mean less tax moneys to the state. In any case, the use of such method does not create a desirable taxing climate for multinational corporations.

The legislature finds that the direction of Hawaii during the decade of the eighties is towards encouraging foreign investment and activity in Hawaii and the activity of Hawaii firms in international markets. This may be gathered by statements in the media and in particular has been set forth in the Hawaii State Planning Act, as for example:

- (1) General objectives and policies for the economy in general include the expansion of Hawaii's national and international marketing, communications, and organizational ties and the promotion of Hawaii as an attractive market for investment activities that benefit Hawaii's people.
- (2) Potential growth activities include the expansion of Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people and the enhancement of Hawaii's role as a center for international trade, finance, services, technology, education, culture, and the arts.
- (3) Economic implementing actions include lessening the financial burden on businesses and promoting Hawaii as an attractive market for investment activities that benefit Hawaii's people.

In order to go forward in this direction an attractive tax climate must exist and it must be set forth in a concrete manner, not based on whim or policy.

The legislature finds that Hawaii has the power to use the worldwide unitary method of taxation, although Hawaii has not used it to date. Statements by the administration indicate that there are no plans to tax the income earned worldwide by multinational corporations. Multinational corporations, however, will not look to statements by the administration concerning intention, when such intention may change during good economic times or may change with administrations; they will look to the law.

The purpose of this Act is to indicate the intent of the legislature that Hawaii does not intend to use the worldwide unitary method of taxing income.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§235- Application. It is the intent of the legislature that in administering this chapter, this part, and sections 235-4 and 235-5 or as a member of or administering the multistate tax compact under chapter 255 the department of taxation shall not use or allow the use of the worldwide method of unitary taxation upheld in *Container Corporation of America v. The Franchise Tax Board*, U.S. [51 Law week 4987] (1983). It is the intent of the legislature that the department of taxation shall continue to apply this chapter, part, sections 235-4 and 235-5, and chapter 255 as they were applied before the above case was decided.”

SECTION 3. In printing this Act, the revisor of statutes shall insert the appropriate citation of the United States Report for the Container Corporation of America v. The Franchise Tax Board case and delete the Law Week citation.

SECTION 4. Material to be deleted is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 54

S.B. NO. 1765-84

A Bill for an Act Relating to the Board of Regents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-34, Hawaii Revised Statutes, is amended to read as follows:

“§26-34 Selection and terms of members of boards and commissions. The members of each board and commission established by law shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. Unless otherwise provided by this chapter or by law hereafter enacted, the terms of such members shall be for four years; provided[,] that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year for each board and commission[; and provided further that the terms of two of the members of the board of regents of the University of Hawaii shall be for two years. Each term shall commence on January 1 and expire on December 31. After November 25, 1959, no]. No person shall be appointed consecutively to more than two terms as a member of the same board or commission; provided[,] that membership on any board or commission shall not exceed eight consecutive years.

A vacancy occurring in the membership of any board or commission during a term shall be filled for the unexpired term thereof, subject to article [IV] V, section 6 of the Constitution of the State.

The governor may remove or suspend for cause any member of any board or commission after due notice and public hearing.

Except as otherwise provided by this chapter, this section shall apply to every board and commission established by part I, or existing or established after November 25, 1959. [The term of each member of any board or commission existing on November 25, 1959, shall terminate on December 31, 1959.] All new appointments to such board or commission shall thereafter be made in accordance with this section.

This section shall not apply to ex officio members of boards and commissions or to the board of trustees of the employees retirement system."

SECTION 2. Section 304-3, Hawaii Revised Statutes, is amended to read as follows:

"§304-3 Regents; appointment; tenure; qualifications; meetings. The affairs of the university shall be under the general management and control of the board of regents consisting of eleven members who shall be appointed and may be removed by the governor. After the effective date of this Act, the term of each member shall be for four years. Except as otherwise provided by statute, state officers shall be eligible to appointment and membership. Every member may serve beyond the expiration date of his term of appointment until his successor has been appointed and has qualified. The board shall at its first meeting after June 30, elect a chairman and vice-chairman, who shall serve until adjournment of its first meeting after June 30 of the next year or thereafter until their successors are appointed and have qualified and whose election shall be immediately certified by the board to the lieutenant governor. The board shall appoint a secretary, who shall not be a member of the board. The president of the university shall act as executive officer of the board. The board shall meet not less often than ten times annually, and may from time to time meet in each of the counties of Hawaii, Maui, and Kauai.

The members of the board shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the board or when actually engaged in business relating to the work of the board."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 55

S.B. NO. 1786-84

A Bill for an Act Relating to Income Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the fourth year in a row and that the legislature is constitutionally required to give a tax credit or refund.

The purpose of this Act is to provide for such an income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1984. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

(b) The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(c) This section implements the provisions of Article VII, section 6, of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

“DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 56

S.B. NO. 1868-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-13, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Each apartment owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners, subject [always] to:

- (1) The right of the board of directors, upon the approval of the owners of seventy-five per cent of the common interests, to change the use of the common elements;
- (2) The right of the board of directors, on behalf of the association of apartment owners, to lease or otherwise use for the benefit of the association of apartment owners those common elements which are not actually used by any of the apartment owners for an originally intended special purpose, as determined by the board of directors; provided that unless the approval of the owners of seventy-five per cent of the common interest is obtained, any such lease shall not have a term exceeding five years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty days written notice;
- (3) The right of the board of directors to lease or otherwise use for the benefit of the association of apartment owners those common elements not falling within paragraph (2) above, upon obtaining: (A) the approval of the owners of seventy-five per cent of the common elements, including all directly affected owners and all owners of apartments to which such common elements are appurtenant in the case of limited common elements, and (B) approval of all mortgagees of record on apartments with respect to which owner

approval is required by (A) above, if such lease or use would be in derogation of the interest of such mortgagees; and

- (4) [the] The exclusive use of the limited common elements as provided in the declaration.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 57

S.B. NO. 1874-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-84, Hawaii Revised Statutes, is amended to read as follows:

“§514A-84 Management contracts; developer. (a) If the developer or any affiliate of the developer acts as the first managing agent for the association of apartment owners following its organization, the contract shall not have a term exceeding one year and shall contain a provision that the contract may be terminated by either party thereto on not more than sixty days’ written notice. The identity of the managing agent as the developer or its affiliate shall be disclosed to the association of apartment owners no later than the first meeting of the association. An affiliate of, or person affiliated with, a developer is a person that directly or indirectly controls, is controlled by, or is under common control with, the developer.

(b) A managing agent employed or retained [for] by one or more condominium projects shall provide evidence of a fidelity bond in an amount equal to \$250 multiplied by the aggregate number of units covered by all of the agent’s condominium management contracts; provided that the minimum amount of bond required by this subsection shall not be less than \$10,000 nor greater than \$50,000.

(c) If a project chooses not to have a managing agent, a fidelity bond in an amount equal to \$250 multiplied by the number of units in the project shall be secured for all individuals handling the project’s funds; provided that the minimum amount of bond required by this subsection shall not be less than \$10,000 nor greater than \$50,000.

(d) The funds in the general operating account of the condominium association shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall the managing agent commingle

any association funds with its own funds. Rental operation shall not include the rental or leasing of common elements that is conducted on behalf of the board of directors of the association of apartment owners.

(e) A managing agent employed or retained by one or more condominium projects may dispose of the records of any condominium project which are more than five years old without liability if the managing agent first provides the board of directors of the condominium project affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board of directors within 60 days, which notice shall include an itemized list of the records which the managing agent intends to dispose of."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 58

S.B. NO. 1877-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514-A-41, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-41[] Supplementary public report. If after a final public report has been issued, any circumstance occurs which would render the final public report misleading as to purchasers[,] in any material respect, [or if the developer proposes to materially change the project,] the developer shall stop all sales and immediately submit sufficient information to the real estate commission to enable it to issue a supplementary public report describing the [changes.] circumstance. Sales shall not resume until the supplementary report has been issued. Notwithstanding the provisions of this section, the rescission rights of a purchaser, if any, shall be governed exclusively by sections 514A-62 and 514A-63. This does not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies."

SECTION 2. Section 514A-46, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-46[] Investigatory powers. If the real estate commission has reason to believe that a developer is violating any provision set forth in sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 [to 514A- 66], 514A-63, 514A-65, 514A-68, 514A-69, and 514A-85, or

the rules and regulations of the commission made pursuant thereto, the commission may investigate the developer's project and examine the books, accounts, records, and files used in the project of the developer. For the purposes of examination, the developer is required to keep and maintain records of all sales transactions and of the funds received by him pursuant thereto, and to make [them] such records accessible to the commission upon reasonable notice and demand."

SECTION 3. Section 514A-48, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-48[] Power to enjoin. Whenever the real estate commission believes from satisfactory evidence that any person has violated any of sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 [to 514A-66], 514A-63, 514A-65, 514A-68, 514A-69, and 514A-85 or the rules and regulations of the commission adopted pursuant thereto, it may conduct an investigation on such matter, and bring an action in the name of the people of the State [of Hawaii] in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof."

SECTION 4. Section 514A-49, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"§514A-49 Penalties.¹ (a) Any person who, in any respect, violates or fails to comply with any of the provisions set forth in sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A- 42, 514A-44 to 514A-49, 514A-62 [to 514A-66], 514A-63, 514A-65, 514A-68, 514A-69, 514A-85, or 514A-102 to 514A-106, or who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the real estate commission under sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 [to 514A-66], 514A-63, 514A-65, 514A-68, 514A-69, 514A-85, or 514A-102 to 514A-106, is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year, or both."

SECTION 5. Section 514A-62, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-62[] Copy of public report to be given to prospective purchaser. (a) The developer (or any other person offering any [unit] apartment in a condominium project prior to completion of its construction) shall not enter into a [binding] contract or agreement for the sale or resale [thereof] of an apartment which is binding upon any prospective purchaser until:

- (1) A true copy of the real estate commission's final public report thereon [with all supplementary public reports, if any has been issued,] has been delivered to the prospective purchaser, either personally or by registered or certified mail with return receipt requested, together with a true copy of all other public reports thereon, if any, issued prior to the date of such delivery and not previously delivered to such prospective purchaser;
- (2) The prospective purchaser has been given an opportunity to read the reports[.]; and
- (3) The prospective purchaser (A) executes [his] the form of the receipt [for the reports;] and notice set forth in subsection (d); and (B) waives his right to cancel; provided that if the prospective purchaser does not execute and return [his] the receipt and notice [for the reports] within thirty days from the date of delivery of such reports, [he] or if the apartment is conveyed to the prospective purchaser prior to the expiration of such thirty-day period, the prospective purchaser shall be deemed to have receipted for the reports and to have waived his right to cancel; provided further, that such receipt shall be effective only if at the time of delivery of the reports the prospective purchaser is notified in writing of the fact that he will be deemed to have executed his receipt for the reports upon his failure to act within the thirty day period].

(b) The [Receipts] receipts and notices taken [for any public report] hereunder shall be kept on file in possession of the developer (or such other person as may offer any apartment in a condominium project prior to completion of its construction), and shall be subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt and notice was taken.

(c) Unless such right has previously been waived pursuant to subsection (a), a prospective purchaser shall have the right to cancel any agreement for the purchase or reservation of an apartment at any time prior to the earlier of (1) the conveyance of the apartment to the prospective purchaser or (2) midnight of the thirtieth day following the date of delivery of the final public report to such purchaser, and, upon any such cancellation, shall be entitled to a prompt and full refund of all moneys paid, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

(d) Whenever a final public report is delivered to a prospective purchaser pursuant to subsection (a), two copies of the receipt and notice set out below shall also be delivered to such purchaser, one of which may be used by the purchaser to cancel the transaction. Such receipt and notice shall be printed in capital and lower case letters of not less than 12 point type on one side of a separate statement. The receipt and notice shall be in the following form:

“RECEIPT AND NOTICE OF RIGHT TO CANCEL

I acknowledge receipt of the Hawaii Real Estate Commission's (Preliminary, Final and/or Supplementary) Public Report(s) and Disclosure Abstract in connection with my purchase of apartment(s) (insert apartment numbers) in the (insert name of condominium project) condominium project. I also acknowledge that I have had an opportunity to read the Public Report(s).

I understand that I have a legal right under Hawaii law to cancel my purchase, if I desire to do so, without any penalty or obligation within thirty days from the date the above Public Report or Reports were delivered to me. If I cancel, I understand that I will be entitled to receive the refund of any downpayment or deposit, less any escrow cancellation fees and other costs, up to \$250.

If I decide to cancel, I understand that I can do so by notifying (insert name of seller) at (insert address of seller) by mail or telegram sent before: (1) the conveyance of my apartment(s) to me; or (2) midnight of the thirtieth day after delivery of the Public Report(s) to me, whichever is earlier. If I send or deliver my written notice some other way, it must be delivered to the above address no later than that time. I understand that I can use any written statement that is signed and dated by me and states my intention to cancel, or I may use this notice by checking the appropriate box and by signing and dating below.

I understand that if I do not act within the above thirty-day period or if the apartment is conveyed to me within the above thirty-day period, I will be considered to have executed this receipt and to have waived my right to cancel my purchase. I also understand that I can waive my right to cancel by checking the appropriate box, by signing and dating below, and by returning this notice to (insert name of seller).

/ / I WISH TO CANCEL.

Purchaser's signature

Date

/ / I WAIVE MY RIGHT TO CANCEL.

Purchaser's signature

Date

(e) No obligation to purchase an apartment under any agreement for the purchase or reservation of an apartment entered into prior to the issuance of a final public report is enforceable against the purchaser under such agreement."

SECTION 6. Section 514A-63, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-63[] [Enforceability of sales. Rights under contracts of sale of condominium units under a preliminary public report are not enforceable against purchasers until purchasers have had a full opportunity to read the real estate commission's final public report on the project, and to obtain a refund of any moneys paid as well as a release from all obligations if the final report differs in any material respect from the preliminary report.] Rescission rights. (a) Except for any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the declaration, a purchaser shall have the right to rescind a sale made under a binding contract if there is a material change in the project which directly, substantially, and adversely affects the use or value of (1) such purchaser's apartment or appurtenant limited common elements, or (2) those amenities of the project available for such purchaser's use.

(b) A purchaser's right of rescission under subsection (a) shall be waived upon (1) delivery to such purchaser, either personally or by registered or certified mail, return receipt requested, of a disclosure document which describes the material change and contains a provision for such purchaser's written approval or acceptance of such change, and (2) such purchaser's written approval or acceptance of the material change, or the lapse of ninety days since such purchaser has accepted the apartment, or the occupancy of the apartment by such purchaser; provided that if such purchaser does not rescind the contract or execute and return the written approval or acceptance of such change as provided in the disclosure document within thirty days from the date of delivery of such disclosure document, such purchaser shall be deemed to have approved

and accepted such change; provided further that the deemed approval and acceptance shall be effective only if at the time of delivery of the disclosure document, such purchaser is notified in writing of the fact that such purchaser will be deemed to have approved and accepted the change upon such purchaser's failure to act within the thirty day period; provided further that if, prior to delivery of such disclosure document, ninety days have lapsed since such purchaser has accepted the apartment, or such purchaser has occupied the apartment, then such purchaser's right of rescission under subsection (a) shall not be waived unless such purchaser shall execute the written approval or acceptance of such change as provided in the disclosure document within thirty days from the date of delivery of such disclosure document or such purchaser is deemed to have approved and accepted such change as set forth above. A copy of the form of disclosure document shall be delivered to the commission prior to delivery to purchasers.

(c) In the event of rescission pursuant to the provisions of this section, a purchaser shall be entitled to a prompt and full refund of any moneys paid.

(d) This section shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for sale or any applicable common law remedies."

SECTION 7. Section 514A-64, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 514A-65, Hawaii Revised Statutes, is amended to read as follows:

"[] §514A-65[] Escrow requirement. All moneys paid by purchasers prior to issuance of final reports shall be deposited in trust under escrow arrangement with instructions that no disbursements shall be made from such trust funds on behalf of the seller until the contract has become effective, and the requirements of sections 514A-39[,] and 514A-63[, 514A-64, and 514A-66] have been met."

SECTION 9. Section 514A-66, Hawaii Revised Statutes, is repealed.

SECTION 10. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11. The provisions of section 514A-62 relating to the giving of the receipt and notice to prospective purchasers shall only apply to projects, including additional phases or increments of projects, the sales of which commence after the effective date of this Act.

SECTION 12. Statutory material to be repealed is bracketed.² New material is underscored.

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SECTION 13. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 59

S.B. NO. 1878-84

A Bill for an Act Relating to the Natural Energy Laboratory of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 227-1, Hawaii Revised Statutes, is amended to read as follows:

“[]§227-1[] Establishment of natural energy laboratory of Hawaii; purpose. There is established a body corporate and a public instrumentality of the State of Hawaii to be known as the natural energy laboratory of Hawaii. The natural energy laboratory of Hawaii shall be placed within the department of planning and economic development for administrative purposes.

The natural energy laboratory of Hawaii shall manage and operate an outdoor research facility on a parcel of state-owned land at Ke-ahole Point on the island of Hawaii. The outdoor research facility shall provide a site for research, development, [and] demonstration, and commercialization of natural energy resources and [for] other compatible scientific and technological investigations. [For the purposes of such activities, the outdoor research facility shall include the land at Ke-ahole Point, the waters offshore, and the structures constructed or erected thereon or therein, as determined to be required by the managing board of the natural energy laboratory of Hawaii.”]

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 60

S.B. NO. 1943-84

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-6, Hawaii Revised Statutes, is amended to read as follows:

“§237-6 “Contractor”, “federal cost-plus contractor”, defined. “Contractor” includes, for purposes of this chapter:

- (1) Every person engaging in the business of contracting to erect, construct, repair, or improve buildings or structures, of any kind or description, including any portion thereof, or to make any installation therein, or to make, construct, repair, or improve any highway, road, street, sidewalk, ditch, excavation, fill, bridge, shaft, well, culvert, sewer, water system, drainage system, dredging or harbor improvement project, electric or steam rail, lighting or power system, transmission line, tower, dock, wharf, or other improvements; [and]
- (2) Every person engaging in the practice of architecture, professional engineering, land surveying, and landscape architecture, as defined in section 464-1[.]; and
- (3) Every person engaged in the practice of pest control or fumigation as a pest control operator as defined in section 460J-1.

“Federal cost-plus contractor” means a contractor having a contract with the United States or an instrumentality thereof, excluding national banks, where, by the terms of the contract, the United States or such instrumentality, excluding national banks, agrees to reimburse the contractor for the cost of material, plant, or equipment used in the performance of the contract and for taxes which the contractor may be required to pay with respect to such material, plant, or equipment, whether the contractor’s profit is computed in the form of a fixed fee or on a percentage basis; and also means a subcontractor under such a contract, who also operates on a cost-plus basis.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved April 18, 1984.)

ACT 61

S.B. NO. 2123-84

A Bill for an Act Relating to Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The provision of human service programs is essential to public health, safety and welfare, and their importance require that they be delivered and conducted effectively and efficiently.

The cutbacks in federal funds for human service programs and the likelihood that the federal government will continue to adhere to a stringent financial policy make it all the more urgent for the legislature to determine whether changes should be made in the responsibilities and delivery systems for human services.

Two current issues particularly require review. One issue is whether the counties should exercise increased responsibilities in the field of human services. The other issue is the role of private agencies in the provision of human services and the development of state policies to guide which kinds of programs should be conducted directly by government agencies and which kinds of programs should be conducted by private agencies.

The Legislature believes that before making determinations on these issues, it can benefit from the advice of citizens of the community. Therefore, the purpose of this Act is to establish a citizens advisory committee on human services to study and render advice on the issues identified in this section.

SECTION 2. There is created a citizens advisory committee which shall advise the legislature on whether the counties should have increased responsibilities in the provision of human services and what should be the role of and what kinds of programs in the field of human services should be conducted by private agencies.

The committee shall be composed of eleven members appointed by the president of the senate and the speaker of the house of representatives. The committee shall elect a chairman and vice-chairman from among its members. A majority of the members of the committee shall constitute a quorum. Members of the committee shall serve without compensation but shall be reimbursed for expenses necessary for the performance of their duties.

SECTION 3. The committee shall submit a report of its findings and recommendations to the legislature prior to the convening of the regular session of 1985. Ninety days after submission of its report to the legislature, the committee shall cease to exist.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

A Bill for an Act Relating to Constitutional Amendments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-112, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The ballot may include questions concerning proposed state constitutional amendments, proposed county charter amendments, or proposed initiative or referendum issues. When the legislature passes a bill to submit a proposed constitutional amendment to the electorate, the bill shall contain the exact question that is to be printed on the ballot. The question shall be phrased to require a “yes” or “no” response by the voter.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 63

S.B. NO. 2205-84

A Bill for an Act Relating to the Board of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 13, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§13- Reapportionment. Upon the implementation of a new apportionment plan, the chief election officer, by proclamation issued no later than the tenth day prior to the close of filing in elections, shall designate the representative districts that comprise the departmental school districts and the school board districts described in section 13-1 to comply with the new districting scheme of such plan, provided that the departmental school districts designated shall cover areas similar to those described in section 13-1.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 64

S.B. NO. 2206-84

A Bill for an Act Relating to Voter Registration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-20, Hawaii Revised Statutes, is amended to read as follows:

"§11-20 Transfers; name changes; initiated by clerk. (a) The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;
- (2) Courts for any changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement or changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting [such] the information the clerk shall give reasonable notice and time for furnishing the information.

(b) If the clerk has evidence indicating that a voter's registration should be transferred, [then not later than 4:30 p.m. on the ninetieth day prior to the primary] the clerk shall notify the person by first-class mail [and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice] of the intent to transfer registration. [Notice by mail shall be sent to the address shown on the current voter list and any alleged new address.] The [notifications] notification shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or change should be made;
- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) [The] Any alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer, [and] the reasons for the objection[;]
and space for the voter's signature;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing, [the voter shall be subject to challenge at the polls under the terms of section 11-25 on the basis of not being registered in the precinct where he resides.]
the transfer shall be processed.

[If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the sixtieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to such new address. A list of those transferred, and the precinct to which they were moved, will be available at the old precinct on election day.]

(c) A voter may contest [such] the transfer on or before election day by presenting evidence that [he] the voter actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list [by executive order].

[A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct wherein he is registered on election day and shall be made available to the public not later than 4:30 p.m. on the forty-fifth day prior to the primary election.]”

SECTION 2. Section 11-21, Hawaii Revised Statutes, is amended to read as follows:

“§11-21 Change of name, transfer on election day. (a) The county clerk may designate a registration clerk, who may be an election official, at any of the polling places in [his] the county on the day of the election.

(b) These registration clerks shall take applications for change of name from voters who have been married or who have had their names changed since the last election.

(c) Any person whose residence has changed since the last election, and who the county clerk has not transferred under section 11-20, may apply at [his] the person's old polling place on the day of the election for transfer of [his] registration to the precinct of [his] the new residence.

(d) Where a person was incorrectly placed on a list of voters of a precinct in which [he] the person does not actually reside, [he] the person may correct [his] the registration.

(e) No person shall be prevented from voting at the election in the precinct in which [his] the person's name appears on the voters list due to a change of name, change of registration, or other correction made under this section. However any voter registered in the wrong precinct who shall refuse to [correct his] make the correction of registration may be challenged in accordance with law.

(f) Any person changing [his] name or transferring shall receive a copy of the change or transfer form.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

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(Approved April 18, 1984.)

ACT 65

S.B. NO. 2208-84

A Bill for an Act Relating to Congressional Districts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 18-1, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 66

S.B. NO. 2248-84

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 46-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The mayor of each county, after holding a public hearing on the matter and receiving the approval of the respective council, shall be empowered to designate areas of land for experimental and demonstration housing projects, the purposes of which are to research and develop ideas that would reduce the cost of housing in the State. Except as hereinafter provided, the experimental and demonstration housing projects shall be exempt from all statutes, ordinances, charter provisions, and rules or regulations of any governmental agency or public utility relating to [the] planning, zoning, [and] construction standards for [the subdivision,] subdivisions, development and improvement of land, and the construction and sale of homes thereon; provided that the experimental and demonstration housing projects shall not affect the safety standards or tariffs approved by the public utility commissions for such public utility.

The mayor of each county with the approval of the respective council may designate a county agency or official who shall have the power to review all plans and specifications for the [the subdivision,] subdivisions, development and improvement of the land involved, and the construction and [sales] sale of homes thereon. The county agency or official shall have the power to approve or

disapprove or to make modifications to all or any portion of the plans and specifications. [The final plans and specifications for the project approved by the county agency or official, upon subsequent approval by the respective council, shall constitute the standards for that particular project.]

The county agency or official shall submit preliminary plans and specifications to the legislative body of the respective county for its approval or disapproval. The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the approved preliminary plans and specifications. The final plans and specifications shall constitute the standards for the particular project.

No action shall be prosecuted or maintained against any county, its officials or employees, on account of actions taken [by them] in reviewing, approving, or disapproving such plans and specifications.

Any experimental or demonstration housing project for the purposes hereinabove mentioned may be sponsored by any state or county agency or any person as defined in section 1-19.

The county agency or official shall apply to the [State Land Use Commission] state land use commission for an appropriate land use district classification change, except where a proposed project is located on land within an urban district established by the [State Land Use Commission.] state land use commission. Notwithstanding any law, rule, or regulation to the contrary, the [State Land Use Commission] state land use commission may approve the application at any time after a public hearing held in the county where the land is located upon notice of the time and place of the hearing being published in the same manner as the notice required for a public hearing by the planning commission of the appropriate county."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 67

S.B. NO. 2251-84

A Bill for an Act Relating to Rental Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356-302, Hawaii Revised Statutes, is amended by amending the definition of "eligible project" to read as follows:

" "Eligible project" means a rental housing project which:

- (1) Is financed by the authority pursuant to part II of chapter 356, or [by the federal government pursuant to any program of the National Housing Act of 1934, as amended;] the authority determines will require rental assistance to make it financially feasible;
- (2) Is subject to a regulatory agreement with the authority;
- (3) Has not less than twenty per cent of the units in the project maintained for eligible tenants;
- (4) Has the remaining units, other than a unit reserved for a manager of the project, maintained for moderate income persons and families, as defined in section 356-206(b); and
- (5) Meets other qualifications as established by rules adopted by the authority."

SECTION 2. Section 356-303, Hawaii Revised Statutes, is amended to read as follows:

"§356-303 Rental assistance revolving fund. (a) There is created a rental assistance revolving fund to be administered by the authority.

(b) The aggregate principal sum in the rental assistance revolving fund, which may without limitation include sums made available from any government program or grant, from private grants or contributions, or by appropriation, shall be invested by the authority in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund; provided that any investment shall be consistent with section 356-31 but need not comply with section 36-21.

(c) Earnings on the investment of the rental assistance revolving fund and amounts recovered by the authority pursuant to section 356-305(f) may be applied by the authority to payments under the rental assistance contracts."

SECTION 3. Section 356-304, Hawaii Revised Statutes, is amended to read as follows:

"§356-304 Rental assistance contracts. (a) The authority may enter into a rental assistance contract and a regulatory agreement with an owner of an eligible project.

(b) Prior to the execution of a rental assistance contract, the authority may execute an agreement to enter into a rental assistance contract with an owner, which agreement shall provide for the execution of a rental assistance contract upon satisfaction of the terms set forth in such agreement and otherwise established by the authority.

(c) The authority shall not enter into any rental assistance contract which would require the authority to make payments at any time in excess of the amount available at such time or times in the rental assistance revolving fund pursuant to section 356-303 for the funding of such payments. Each rental

assistance contract shall provide that rental assistance payments shall be made solely from the earnings on the investment of the rental assistance revolving fund.

(d) A rental assistance contract shall be for a term of not less than ten years and shall not be for a term in excess of the period for which the authority has invested the principal of the rental assistance revolving fund at a known rate of return.

(e) Each rental assistance contract shall set forth a maximum annual rental assistance payment amount. The authority shall establish procedures for determining the maximum annual rental assistance payment amount and may consider, but not be limited to, the following:

- (1) The cost of constructing the eligible project;
- (2) The estimated annual operating cost of the eligible project;
- (3) The estimated maximum rentals which may be charged for units in the eligible project;
- (4) The amount of funds available for the funding of rental assistance contracts;
- (5) The number of eligible projects requiring assistance under this part; and
- (6) A restricted rate of return on equity to the owner, which rate shall be established by the authority by rule."

SECTION 4. Any and all moneys previously appropriated to the rental assistance fund shall be transferred to the rental assistance revolving fund, and shall not lapse.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 68

H.B. NO. 1632-84

A Bill for an Act Relating to Interest.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-18, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Should the commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or real estate salesman, the license of the broker or

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salesman shall be automatically terminated upon the issuance of a court order authorizing payment from the real estate recovery fund. No such broker or salesman shall be eligible to receive a new license until he has repaid in full, plus interest at the rate [of six per cent a year,] provided for in section 478-2, the amount paid from the real estate recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 69

H.B. NO. 1636-84

A Bill for an Act Making an Appropriation for Hilo Hospital, Hilo, County of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with Section 9 of Article VII of the Constitution of the State of Hawaii.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,742,413 for fiscal period 1983-1985, for equipment for Hilo Hospital, Hilo, County of Hawaii. Any unexpended or unencumbered balance of any appropriation made by this Act, as of the close of business on June 30, 1985, shall lapse into the state general fund.

SECTION 3. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

ACT 70

H.B. NO. 1758-84

A Bill for an Act Relating to the State Clearinghouse.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 279E-8, Hawaii Revised Statutes, is hereby amended to read:

"§279E-8 Clearinghouse agency.¹ The governor of the State of Hawaii shall have the authority to [appoint every] designate any agency in the State and in any county of the State [which will] to exercise the duties of the [A-95] clearinghouse agency [required by the United States Office of Management and Budget circular A-95.] as called for in Presidential Executive Order 12372 - Intergovernmental Review of Federal Programs."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 1984.)

Note

1. Brackets missing.

ACT 71

S.B. NO. 2240-84

A Bill for an Act Relating to the Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 87, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§87- Determination of health benefits plans. Pursuant to section 87-4, the board of trustees shall provide health benefits to employee-beneficiaries in the following manner:

- (1) For those employee-beneficiaries who are not participating in a health benefits plan of an employee organization (hereafter "non-participating employee-beneficiaries"), the board of trustees shall establish health benefits plans and the requirements for eligibility under the health benefits plans. Any rate credit or reimbursement from any carrier of any earnings or interest derived from the health benefits plans of nonparticipating employee-beneficiaries shall be used to improve the respective health benefits plans of nonparticipating employee-beneficiaries or to reduce the employee-beneficiary's respective share of monthly contributions to a health plan.
- (2) For employee-beneficiaries who participate in the health benefits plan of an employee organization, the board of trustees shall pay a monthly contribution for each employee-beneficiary, in the amount provided in section 87-4(a), or the actual monthly cost of the coverage, whichever is less, towards the purchase of health benefits under the health benefits plan of an employee organization."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 19, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 72

S.B. NO. 1725-84

A Bill for an Act Relating to Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-34, Hawaii Revised Statutes, is amended to read as follows:

“§26-34 Selection and terms of members of boards and commissions. (a) The members of each board and commission established by law shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. Unless otherwise provided by this chapter or by law hereafter enacted, the terms of [such] the members shall be for four years; provided[,] that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year for each board and commission; and provided further that the terms of two of the members of the board of regents of the University of Hawaii shall be for two years. Each term shall commence on January 1 and expire on December 31. After November 25, 1959, no person shall be appointed consecutively to more than two terms as a member of the same board or commission; provided[,] that membership on any board or commission shall not exceed eight consecutive years.

(b) Any member of a board or commission whose term has expired and who is not disqualified for membership under subsection (a) may continue in office as a holdover member until a successor is nominated and appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.

(c) A vacancy occurring in the membership of any board or commission during a term shall be filled for the unexpired term thereof, subject to article [IV,] V, section 6 of the Constitution of the State.

(d) The governor may remove or suspend for cause any member of any board or commission after due notice and public hearing.

(e) Except as otherwise provided by this chapter, this section shall apply to every board and commission established by part I, or existing or established after November 25, 1959. The term of each member of any board or commission existing on November 25, 1959, shall terminate on December 31, 1959. All new appointments to [such] any board or commission shall thereafter be made in accordance with this section.

(f) This section shall not apply to ex officio members of boards and commissions or to the board of trustees of the employees retirement system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 19, 1984.)

ACT 73

S.B. NO. 1577-84

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 253, Session Laws of Hawaii 1982, amended section 237-4, Hawaii Revised Statutes, to provide relief to agricultural producers.

Traditionally manufacturers pay an excise tax rate of .5 per cent on the raw materials utilized in their business. Farmers (producers), however, did not enjoy such tax relief, and had to pay the full four per cent excise tax rate for much of their raw materials. Act 253 was designed to extend the .5 per cent excise tax rate to cover all raw materials utilized by farmers.

The department of taxation has pointed out a technical problem with Act 253. The Act extended the .5 per cent excise tax rate to agricultural or aquacultural producers. There would have been no problem if agricultural was defined as in chapter 421, Hawaii Revised Statutes. Chapter 237, however, refers to "agricultural, animal, [and] poultry" producers. The department of taxation has ruled that Act 253 only applies to agricultural producers which do not include animal and poultry companies.

This technical problem was not the intent of Act 253, and the purpose of this Act is to further amend section 237-4 as well as section 237-5, Hawaii Revised Statutes, to correct this error. In addition the intent of this Act is to impose the use tax on importations by producers and cooperative associations at a similar .5 per cent.

SECTION 2. Section 237-4, Hawaii Revised Statutes, is amended to read as follows:

“§237-4 “Wholesaler”, “jobber”, defined. “Wholesaler” or “jobber” applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer;
- (3) Sales to a licensed [agricultural or aquacultural] producer or [agricultural or aquacultural] cooperative association of materials or commodities which are to be incorporated by the producer or by the cooperative association into a finished or saleable product which is to be sold and not otherwise used by the producer or cooperative association, including specifically materials or commodities expended as essential to the planting, growth, nurturing, and production of [agricultural or aquacultural] commodities which are sold by the producer or by the cooperative association;
- (4) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses;
- (5) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) or for the purpose of breeding, hatching, milking, or egg laying other than for the customer’s own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by [him] the feed lot operator as part to be butchered or to a cooperative association described in section 237-23(a)(9) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than

the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;

- (6) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2);
- (7) Sales to a licensed producer, or to a cooperative association described in section 237-23(a)(9) for sale to such producer; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2);
- (8) Sales of tangible personal property to a licensed person engaged in the service business; provided that (A) the property is not consumed or incidental to the performance of the services; (B) there is a resale of the article at the retail rate of four per cent; and (C) the resale of the article is separately charged or billed by the person rendering the services;
- (9) Sales to a licensed leasing company of capital goods which are thereafter leased as a service to others. Capital goods means goods which have a depreciable life and which are purchased by the leasing company for lease to its customers.

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining "wholesaler" or "jobber"): "Wholesaler" or "jobber" means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at [his or its] the person's place of business a stock or lines of merchandise which [he or it] the person distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to

institutional or licensed commercial or industrial users, in wholesale quantities and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter."

SECTION 3. Section 237-5, Hawaii Revised Statutes, is amended to read as follows:

"§237-5 "Producer" defined. "Producer" means any person engaged in the business of raising and producing agricultural[, animal, or poultry] products in their natural state, or in producing natural resource products, or engaged in the business of fishing or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural[, or aquaculture[, animal, or poultry] products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish.

As used in this section "agricultural products" include floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and any other farm, agronomic, or plantation products."

SECTION 4. Section 238-4, Hawaii Revised Statutes, is amended to read as follows:

"§238-4 Certain property used by producers. If:

- (1) A] a licensed producer, or a cooperative association acting under the authority of chapter 421 or 422, in order to sell to such producer, or a licensed person [operating a feed lot], imports into the State or acquires in the State[, cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; seedlings and cuttings for producing nursery plants; chick containers; or poultry or animal feed, hatching eggs, semen, or replacement stock, in such a manner and for such purposes that if the cartons and the other containers, wrappers, and sacks, binders, seedlings, cuttings, chick containers, poultry, animal feed, hatching eggs, semen, or replacement stock so imported or acquired had been purchased in the State, section 237-4(4) or (6) would apply, or
- (2) A licensed producer, or a cooperative association under the authority of chapter 421 or the Fish Marketing Act under chapter 422 in order to sell to the producer, imports into the State, or acquires in the State, seed or bait, in such manner and for such purposes that if the seed or bait so imported or acquired had been purchased in the State,] commodities, materials, items, services, or living things enumerated in section 237-4(3) and (5) to (7), then section 237-4(5) would] shall apply[, then,

if]. If section 237-4 applies and the producer is engaged in the sale of [his] the producer's products at retail or in any manner other than at wholesale, then the tax upon use of property in the State imposed by section 238-2(2) shall apply the same as in the case of a purchaser who is a licensed retailer. In other such cases no tax shall be imposed under this chapter."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act, upon its approval, shall take effect July 1, 1984.

(Approved April 27, 1984.)

ACT 74

H.B. NO. 851

A Bill for an Act Relating to the Status of Women.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 367, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read:

"§367- Executive secretary. The commission shall appoint an executive secretary for the proper administration and enforcement of this chapter without regard to chapters 76 and 77."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 75

H.B. NO. 1718-84

A Bill for an Act Relating to Collective Bargaining.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth an impasse procedure culminating in a final and binding decision,

to be invoked in the event of an impasse over the terms of an initial or renewed agreement. In the absence of such a procedure, either party may request the assistance of the board by submitting to the board and to the other party to the dispute a clear, concise statement of each issue on which an impasse has been reached together with a certificate as to the good faith of the statement and the contents therein. The board, on its own motion, may determine that an impasse exists on any matter in a dispute. If the board determines on its own motion that an impasse exists, it may render assistance by notifying both parties to the dispute of its intent.

The board shall render assistance to resolve the impasse according to the following schedule:

- (1) **Mediation.** Assist the parties in a voluntary resolution of the impasse by appointing a mediator or mediators, representative of the public, from a list of qualified persons maintained by the board, within three days after the date of the impasse, which shall be deemed to be the day on which notification is received or a determination is made that an impasse exists.
- (2) **Fact-finding.** If the dispute continues fifteen days after the date of the impasse, the board shall appoint, within three days, a fact-finding board of not more than three members, representative of the public, from a list of qualified persons maintained by the board. The fact-finding board, shall, in addition to powers delegated to it by the public employment relations board, have the power to make recommendations for the resolution of the dispute. The fact-finding board, acting by a majority of its members, shall transmit its findings of fact and any recommendations for the resolution of the dispute to both parties within ten days after its appointment. If the dispute remains unresolved five days after the transmittal of the findings of fact and any recommendations, the board shall publish the findings of fact and any recommendations for public information if the dispute is not referred to final and binding arbitration.
- (3) **Arbitration.** If the dispute continues thirty days after the date of the impasse, the parties may mutually agree to submit the remaining differences to arbitration, which shall result in a final and binding decision. The arbitration panel shall consist of three arbitrators, one selected by each party, and the third and impartial arbitrator selected by the other two arbitrators. If either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a neutral arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been

selected by the parties as described above. The arbitration panel shall take whatever actions necessary, including but not limited to inquiries, investigations, hearings, issuance of subpoenas, and administering oaths, in accordance with procedures prescribed by the board to resolve the impasse. If the dispute remains unresolved within fifty days after the date of the impasse, the arbitration panel shall transmit its findings and its final and binding decision on the dispute to both parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. All items requiring any [monies] moneys for implementation shall be subject to appropriations by the appropriate legislative bodies, and the employer shall submit all such items agreed to in the course of negotiations within ten days to the appropriate legislative bodies.

- [(4) The costs for mediation and fact-finding shall be borne by the board. All other costs, including that of a neutral arbitrator, shall be borne equally by the parties involved in the dispute.]

The time frame prescribed in the foregoing schedule may be altered by mutual agreement of the parties, subject to the approval of the board.

The costs for mediation and fact-finding shall be borne by the board. All other costs, including that of a neutral arbitrator, shall be borne equally by the parties involved in the dispute."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved April 27, 1984.)

ACT 76

H.B. NO. 1738-84

A Bill for an Act Relating to Premarital Examination for Rubella.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 143, Session Laws of Hawaii 1979, is amended by amending Section 2 to read:

"SECTION 2. The department of health shall be responsible for the follow-up and immunization of those women found to be susceptible to rubella and those referred to the department of health by their private physician, with the informed consent of the patient. The department shall be responsible for notifying those women found to be susceptible to rubella by mailing notice thereof to their last known address."

ACT 77

SECTION 2. Act 143, Session Laws of Hawaii 1979, is amended by amending Section 5 to read:

“SECTION 5. This Act shall take effect on July 1, 1979, and the provision for mandatory premarital rubella screening shall remain in effect until [June 30, 1984.] June 30, 1989.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 77

H.B. NO. 1739-84

A Bill for an Act Relating to State Comprehensive Emergency Medical Services Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-232, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The department of health shall establish reasonable fees for services rendered to the public by the department of health, any county, or private agency under this part; provided that all such revenues which shall be collected by the department of health and the respective counties shall be deposited into the state general fund[.], except such amounts necessary to provide for collection services for bad debt accounts. Fees required to be set by this section shall be established in accordance with chapter 91.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 78

H.B. NO. 1741-84

A Bill for an Act Relating to Grants-in-aid.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-8, Hawaii Revised Statutes, is amended to read:

“§334-8 Grants-in-aid. In carrying out his duties under this chapter:

- (1) The director of health may enter into agreements with the United States and with other state departments, agencies, and political subdivisions and enter into assistance agreements with [private nonprofit groups, institutions, or corporations] a profit organization incorporated under the laws of the State or a nonprofit organization determined to be exempt from the federal income tax by the Internal Revenue Service, and allocate and expend any fund appropriated for the purposes of such agreements and do all things necessary to accomplish the purposes and provisions thereof.
- (2) The director may require the recipient of any state grant-in-aid to contribute money, facilities, or services to the program or project for which the grant is made.
- (3) The director shall establish standards and review procedures to assure that recipients of state grants-in-aid provide the services and facilities necessary to accomplish the purposes for which the grants are made.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 79

H.B. NO. 1839-84

A Bill for an Act Relating to Marriage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 572, Hawaii Revised Statutes, is amended by establishing two parts to be titled “PART I. REQUISITES, PROCEDURES” which shall include sections 572-1 to 572-16, Hawaii Revised Statutes; and “PART II. PROPERTY CONTRACTS, DEBTS, AND LIABILITIES” which shall consist of sections 510-1, 573-6, and 573-7, Hawaii Revised Statutes, which shall be appropriately renumbered.

SECTION 2. Section 573-2, Hawaii Revised Statutes, shall be appropriately renumbered and included in part II, chapter 572, established by section 1 of this Act, and amended to read as follows:

“§[573-2] 572- Contracts. A married [woman] person may make contracts, oral and written, sealed and unsealed, with persons other than her [husband,] or his spouse, in the same manner as if she or he were sole. [A

married woman and her husband] Spouses may contract with each other, as follows:

- (1) By deed or assignment to or in favor of the other;
- (2) By agreement settling their respective rights in property owned by them, or either of them, when the agreement is made in contemplation of divorce or judicial separation;
- (3) By agreement providing for periodic payments for the support and maintenance of one spouse by the other, or for the support, maintenance, and education of children of the parties, when the agreement is made in contemplation of divorce or judicial separation; provided that the agreement shall be subject to approval by the court in any subsequent proceeding for divorce or judicial separation and that future payments under an approved agreement shall nevertheless be subject to increase, decrease, or termination from time to time upon application and a showing of circumstances justifying a modification thereof;
- (4) By partnership agreements for business purposes;
- (5) As provided in section 560:2-204."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 80

H.B. NO. 1864-84

A Bill for an Act Relating to School District Advisory Councils.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this bill is to provide that each school district advisory council shall advise the board of education on matters of educational policy. If the councils are to serve meaningfully in funneling the feelings and opinions of the various communities to the board of education on matters of educational policy, the restriction which currently prevents them from so performing needs to be removed.

SECTION 2. Section 296-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Each school district advisory council shall serve in an advisory capacity to the board of education and to the member or members of the board of education from its school district.

Each school district advisory council shall:

- (1) Inform the board of education on educational matters of interest to the school district;
- (2) Disseminate information and interpret decisions and policies of the board of education to the people of the school district;
- (3) Act as an advisory body to the district superintendent of each school district; and upon his request, assist him in disseminating information, interpreting decisions and policies, and in obtaining public reaction;
- (4) Present and explain local or school district public concern in policies and administrative regulations of the department of education;
- (5) Work with and among the several other school district advisory councils to insure cooperation on educational matters of mutual interest and concern; and
- (6) Advise the board of education in the development of policies [as the board of education may request from time to time]."

SECTION 3. Statutory material to be deleted is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 81

H.B. NO. 2110-84

A Bill for an Act Relating to Filmmaking.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

"§201-3 Specific research and promotional functions of the department. Without prejudice to its general functions and duties the department of planning and economic development shall have specific functions in the following areas:

- (1) Agricultural development. The department shall:
 - [(i) conduct] **(A) Conduct** surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products;
 - [(ii) promote] **(B) Promote** an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commod-

ities produced in Hawaii and in the maximum utilization of same, including processed agricultural food products; and

- [(iii) make] (C) Make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion.

With respect to agricultural development, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.

- (2) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State's industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (3) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (4) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.

- (5) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate.

[Effective June 9, 1983 and until June 30, 1984, the] The department shall be the central agency to coordinate film permit activities in the State [and may, subject to restrictions as the department deems necessary and in consultation with and by agreements with affected agencies, issue a permit to any person for the temporary occupancy of state lands or interests therein for the purpose of allowing commercial filming of motion pictures and television feature productions, profit and nonprofit documentaries, commercial video taping and still photography; provided that the department may allow a permit to continue on a day-to-day basis for additional one week periods. Coordination with appropriate agencies shall precede issuance of a permit].

[A permit shall be issued upon written application in the form prescribed by the department and upon collection of the fee determined by the department under rules established pursuant to chapter 91.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 82

H.B. NO. 2184-84

A Bill for an Act Relating to Special Purpose Revenue Bonds for Not-for-profit Corporations that Provide Health Care Facilities to the General Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the issuance of special purpose revenue bonds for not-for-profit corporations that provide health care facilities to the general public has benefitted the people of Hawaii. The legislature further finds that the public interest will be enhanced by allowing continued issuance of special purpose revenue bonds in the near future.

The purpose of this Act is to extend the enabling legislation authorizing the issuance of special purpose revenue bonds for not-for-profit corporations that provide health care facilities to the general public.

SECTION 2. Section 39A-52, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~39A-52~~]]~~ **Sunset provision.** After June 30, [1986] 1991 no new special purpose revenue bonds shall be issued under this part."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 27, 1984.)

ACT 83

S.B. NO. 1890-84

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 62, Session Laws of Hawaii 1982, is amended by adding a new section to be appropriately designated and to read as follows:

"SECTION 5. The department of land and natural resources, on behalf of the State, is hereby authorized to subdivide and provide for the creation of a residential subdivision for persons who receive long-term leases under the provisions of this Act, which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon; provided that the department of land and natural resources finds the project is consistent with the purpose and intent of this Act and meets minimum requirements of health and safety."

SECTION 2. Act 62, Session Laws of Hawaii 1982, is amended by amending section 2 to read as follows:

"SECTION 2. The department of land and natural resources is authorized to negotiate and enter into long-term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (1) Persons who were displaced by, or are descendants of the refugees of, the 1926 Hoopuloa lava flow and who actually resided and continued to reside in the area [are] set aside by Executive Order 473, at some point prior to December 31, 1949; or

- (2) Persons awarded a lot in some manner under the county management of Executive Order 473, and who did not relinquish such right to others or back to the county, and who actually resided in the area set aside by Executive Order 473, at some point prior to December 31, 1949; or
- (3) Persons who resided in the area by virtue of assignment of lot by those persons who were awarded a lot in some manner under the county management of Executive Order 473; or
- (4) Any heir, consanguineous or affined, of any person qualifying under paragraph (1), (2), or (3) of this section who has established residence in the area described in section [4] 3 of this Act; or
- (5) Persons who on the effective date of this Act reside on a parcel or parcels of land listed in section 4, have permits allowing them to reside on those parcels; and

who can prove their claims to the department of land and natural resources under the provisions of this Act."

SECTION 3. Act 62, Session Laws of Hawaii 1982, is amended by amending section 5 to read as follows:

"SECTION [5.] 6. Any other law to the contrary notwithstanding, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in Section 2 and Section 3, or (2) on [January 1, 1985,] January 1, 1987, whichever occurs first."

SECTION 4. Act 62, Session Laws of Hawaii 1982, is amended by amending section 6 to read as follows:

"SECTION [6.] 7. This Act shall take effect upon its approval."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 30, 1984.)

ACT 85

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, for the fiscal period 1984-1985, the sum of \$200,000, or so much thereof as may be necessary, to fund the operational expenses of the 1984 Hawaii Statehood Silver Jubilee Committee, including the hiring of temporary staff to assist the Committee in its functions and operations, and to fund activities, projects and programs planned, sponsored or promoted by the Committee for celebrating the 25th anniversary—the Silver Jubilee—of the admission of Hawaii into the Union as a state of the United States of America.

SECTION 2. The sum appropriated shall be expended by the Office of the Governor for the purposes of this Act.

SECTION 3. Funds appropriated by this Act which are not encumbered as of the close of business on December 31, 1984, shall lapse into the general fund.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 1984.)

ACT 85

H.B. NO. 1749-84

A Bill for an Act Relating to Mandatory Retirement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 78-3, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 88-73, Hawaii Revised Statutes, is amended to read:

“§88-73 Service retirement. Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

- (1) Any member who has at least five years credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk and the sergeant at arms of both houses of the legislature, may retire upon his written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired. In the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the

member's estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.

- [(2)] Any member who has at least five years of credited service and who attains the age of seventy years shall be retired on the first day of the calendar month next succeeding that in which he attains such age; provided a member of the legislature may continue or be restored to active membership in the system after the age of seventy years during the period such member is serving in his elective capacity.
- (3)] (2) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although he continues to fill his elective position.
- [(4)] (3) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which he elected to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of his average final compensation shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but he shall not receive a retirement allowance until he leaves active service; however, upon his leaving active service he shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90 which post retirement allowances shall be computed from the date of the election as though he had left active service on that day."

SECTION 3. Section 297-15, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 378-3, Hawaii Revised Statutes, is amended to read:

"§378-3 Exceptions. Nothing in this part shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and which have a substantial relationship to the functions and responsibilities of the prospective or continued employment;
- (3) Prohibit or prevent an employer, employment agency, or a labor organization from refusing to hire or refer or from discharging any

individual for reasons relating to the ability of the individual to perform the work in question;

- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan[;] based on age, which is not intended to evade the purpose of this chapter; provided that this exception shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age; provided further that any existing bona fide retirement, pension, employee benefit, or insurance plan or existing bargaining agreement shall be exempt from the provisions of this paragraph for two years after the effective date of this Act or until the termination of the plan or agreement, whichever occurs first;
- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to individuals of the same religion or denomination or from making such selection as is calculated by the organization to promote the religious principles for which it is established or maintained;
- (6) Conflict with or affect the application of security regulations in employment established by the United States or the State;
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a handicapped person."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved April 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 86

S.B. NO. 785

A Bill for an Act Relating to Credit Sales.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 476, Hawaii Revised Statutes, is amended to read as follows:

“CHAPTER 476

[RETAIL INSTALLMENT] CREDIT SALES

§476-1 Definitions. In this chapter, unless the context or subject matter otherwise requires:

["Goods" means all chattels personal other than money and things in action, except as herein provided, and includes emblements, growing crops, and things which attach to or form a part of land which are agreed to be severed before sale under the retail installment contract and things which at the time of sale or subsequently are to be so affixed to real property as to become a part thereof, whether or not severable therefrom. The term includes merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods sold by such a seller. The term also includes services as herein defined.

"Services" means work, labor, or services of any kind whether purchased primarily for personal, family, household, commercial, or business use, and whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods, and includes repairs, alterations, or improvements upon or in connection with real property. "Services" also means fees, costs, fines, bails, or other charges assessed, accepted, or collected by court.

"Retail buyer" or "buyer" means any person who buys goods from a retail seller in a retail installment sale and who executes a retail installment contract in connection therewith.

"Retail seller" or "seller" means a person engaged in the business of selling goods to retail buyers.

"Retail installment sale" or "sale" means and includes any sale, other than for the purpose of resale, of goods to a retail buyer pursuant to a retail installment contract providing for payment of a time sale price. The cash sale price of the goods and the amount, if any, included for insurance and other benefits, official fees, and finance charge shall together constitute the time sale price.

"Retail installment contract" or "contract" means and includes any agreement, including a conditional sale contract or any other form of instrument, evidencing an obligation to pay the purchase price, or moneys advanced in payment of the purchase price, of goods, by payment thereof in two or more installments over a period of time, whether or not the contract contains a title retention provision. This term includes any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

“Cash sale price” means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the goods which are the subject matter of the retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license, and other fees and charges for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

“Official fees” means the filing or other fees required by law to any governmental agency for the recording, registering, or filing of any documents necessary in connection with the transaction; provided, that nothing herein shall be deemed to require the recording, registering, or filing of any document, except as provided by law.

“Finance charge” means the amount, however denominated or expressed, which the retail buyer contracts to pay or pays for the privilege of purchasing goods to be paid for in installments under the terms of the retail installment contract; it does not include the amounts, if any, charged for insurance or other benefits, delinquency charges, attorneys’ fees, court costs, or collection fees and expenses.

“Person” means an individual, partnership, corporation, association, or other group however organized.

“Referral sale” means a sale of goods, subject to this chapter, in which part of the inducement offered by the seller is a rebate, discount, commission, or other consideration to be given the buyer when the latter either sells or gives information leading to a sale, by the seller, of the same or related goods.

“Total sale price” means the sum of the cash sale price, official fees, finance charge, the amounts charged for insurance and other benefits, if any, and all other fees and charges related to the sale.]

“Annual percentage rate” means the annual percentage rate of finance charge determined in accordance with the federal Truth in Lending Act.

“Cash price” means the price at which the seller, in the ordinary course of business, offers to sell for cash the goods or services that are the subject of the credit sale. At the seller’s option, the term may include the price of accessories, services related to the sale, service contracts, general excise and other taxes, and taxes and fees for license, title, and registration. The term does not include any finance charge.

“Closed-end credit” means a credit sale that is not “open-end credit”.

“Credit buyer” means any person who buys goods, services, or both, from a credit seller in a credit sale and who executes a credit sale contract in connection therewith.

“Credit sale” or “sale” includes any sale of goods, services, or both, by a credit seller pursuant to a credit sale contract other than:

(1) Any sale for the purpose of resale; or

- (2) Any sale:
 - (A) Primarily for a business, commercial, or agricultural purpose; or
 - (B) To other than a natural person, including a sale to government agencies or instrumentalities; or
 - (C) Not secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer, in which the principal balance, less any prepaid finance charge, exceeds \$25,000 or in which there is an express written commitment to extend credit in excess of \$25,000; unless the credit seller elects that the sale be a credit sale subject to¹ this chapter, such election being conclusively presumed from the compliance of the contract with section 476-3(c) and (d); or
- (3) Any sale involving public utility services provided through pipe, wire, other connected facilities, or radio or similar transmission (including extensions of such facilities), if the charges for service, delayed payment, or any discounts for prompt payment are filed with or regulated by any government unit, except the sale of durable goods or home improvements by a public utility; or
- (4) Any sale in a securities or commodities account in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

“Credit sale contract” or “contract” means any agreement, including a conditional sale contract, a retail installment contract or any other form of instrument, evidencing an obligation to pay the price of goods, services, or both, purchased in a credit sale, either (1) by payment thereof over a period of time subject to a finance charge or, (2) pursuant to written agreement, subject to payment in more than four installments not including a downpayment, and in either case whether or not the contract contains a title retention provision. This term includes any contract for the bailment or leasing of goods (unless terminable without penalty at any time by the bailee or lessee) by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of the value of the goods and services involved and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, for no additional consideration or for nominal consideration, the owner of the goods upon full compliance with the terms of the contract.

“Credit seller” or “seller” means a person:

- (1) Who regularly sells goods, services, or both, to credit buyers, and
- (2) To whom the obligation is initially payable on the face of the contract.

“Federal Truth in Lending Act” means the federal Truth in Lending Act (15 U.S.C. 1601, et seq.), Regulation Z of the Board of Governors of the Federal Reserve System, and the Official Staff Commentary to Regulation Z prepared by the staff of the Federal Reserve Board, and amendments of the Act, Regulation Z, and such Commentary.

“Finance charge” means the amount, however denominated or expressed, which the credit buyer contracts to pay or pays for the privilege of purchasing goods, services, or both, to be paid for over a period of time under the terms of the credit sale contract. It includes any charge payable, directly or indirectly, by the buyer and imposed, directly or indirectly, by the seller as an incident to or a condition of the buyer’s privilege of paying over a period of time. It does not include any charge of a type payable in a comparable cash transaction. The types of charges included in and excluded from the finance charge shall be the same as provided by the federal Truth in Lending Act.

“Goods” include all things which are movable at the time the credit sale is entered into or which will be movable when they thereafter come into existence or which are or will be fixtures (section 490:9-313), but except as provided in this paragraph does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. “Goods” include standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young animals, growing crops, and merchandise certificates or coupons, issued by a credit seller, to be used in the face amount in lieu of cash in exchange for goods sold by such a seller.

“Open-end credit” means one or more credit sales made by a credit seller under a plan in which:

- (1) The credit seller reasonably contemplates repeated transactions;
- (2) The credit seller may impose a finance charge from time to time on an outstanding unpaid balance; and
- (3) The amount of the price of the goods, services, or both, that the credit buyer may defer from time to time during the term of the plan (up to any limit set by the credit seller) is generally made available to the extent that any outstanding balance is repaid.

“Person” means a natural person or an organization, including a partnership, corporation, association, proprietorship, cooperative, estate trust, government unit, or other group however organized.

“Prepaid finance charge” means any finance charge paid separately in cash or by check before or at the time that a buyer becomes contractually obligated on a credit sale, or withheld from the proceeds of the credit sale at any time, except any finance charge that is stated as a dollar amount and is added on or deducted in advance in the manner described in section 476-28(1)².

"Principal balance" means the sum of the cash price less the amount of the buyer's down payment, plus any other amounts that are financed by the seller and are not part of the finance charge.

"Services" include:

- (1) Work, labor, and other personal services of any kind whether or not furnished in connection with the delivery, installation, servicing, repair, or improvements of goods, and includes repairs, alterations, or improvements upon or in connection with real property;
- (2) Privileges, with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like; and
- (3) Fees, costs, fines, bails, or other charges assessed, accepted, or collected by a court of law.

"Total of payments" means the sum of the principal balance and the finance charge.

"Total sale price" means the sum of the cash price, any other amounts that are financed by the seller and are not part of the finance charge, and the finance charge.

[§476-1.5] §476-2 Application when inconsistent with federal provisions or regulations. [With regard to any transaction governed by the Federal Truth in Lending Act, no] No contract, memorandum, or advertisement shall be required by this chapter to contain any disclosure which is inconsistent with the requirements of the [Federal] federal Truth in Lending Act [and with the regulations of the Federal Reserve Board].

[§476-2] §476-3 General requirements of [retail installment] credit sale contracts. (a) Every [retail installment] credit sale contract shall [be]:

- (1) Be in writing[, shall contain];
- (2) Contain, incorporate by reference, or otherwise clearly refer to all the agreements off[,] the parties; provided that if a portion of the agreements are to be filed or recorded with any governmental agency, it may be contained in a separate part; and [shall be]
- (3) Be signed by[,] the parties; provided[,] that if a portion of the agreements is contained in a separate part, the separate part shall be separately signed. If the contract provides for the extension of open-end credit, it shall be deemed to have been signed by the buyer if the buyer has signed an application for the open-end credit plan and, after receipt from the seller of a copy of the contract, has made purchases under the plan. The parties' signatures shall be made by use of any name, including any trade or assumed name, upon the credit sale contract, or by any word or mark used in lieu of a written signature. [the]

(b) The contract may provide for purchases to be made by the buyer from time to time and shall be effective as to such purchases. If the contract provides for purchases to be made from time to time, [the contract shall contain the notice required by the third paragraph hereof and the amount or rate of the finance charge applicable to purchases thereunder. The] the sales slip or other written statement or evidence with respect to each [such] purchase shall be furnished to the buyer promptly following each purchase and [may at the option of the seller] shall set forth the [information required by section 476-3 or section 476-29.] amount and date of the transaction and the seller's name or trade name.

(c) The printed, handwritten, or typewritten portion of the contract shall be in a size at least equivalent to eight-point type. The contract shall contain, in a size and style equal at least to ten-point bold type if printed, upper case elite type if typewritten and equivalent thereto if handwritten, the words, "[RETAIL INSTALLMENT] CREDIT SALE CONTRACT" both at the top of the contract and directly above the space reserved for the signature of the buyer[, and the words "NOTICE TO THE BUYER" as set forth in the next paragraph].

[The following notice shall appear immediately] (d) Immediately above the words "[RETAIL INSTALLMENT] CREDIT SALE CONTRACT" where they appear directly above the space reserved for the signature of the buyer[:] there shall appear a notice substantially similar to the following: "NOTICE TO THE BUYER: [1.] Do not sign this contract before you read it [or if it contains any blank space]. [2. You are entitled to a completely filled in copy of this contract when you sign it.] When you sign this contract, you are entitled to a copy of it that is filled in, in every necessary respect. You should keep it. [3. Under the law, you have the following rights, among others: (a) To pay off in advance the full amount due and to obtain a partial refund of the finance charge, if paid in advance; (b) Under certain conditions, to redeem the property if repossessed for a default.]" This contract is covered by Hawaii's credit sale law, and you have the rights of a buyer under that law. You also may have rights under other state and federal laws."

(e) The contract shall contain the names or trade names of the parties and their respective places of business or residence[. Either] or their mailing addresses. If the contract does not provide for purchases to be made from time to time, either the contract, or the sales slip, or other written statement or evidence of the purchase required to be furnished to the buyer under this section, shall contain an indication of the types or a description of the goods, [including make, model, and identification number or marks, if any] services, or both.

[§476-3] §476-4 Specific requirements of [retail installment] credit sale contracts. (a) Every credit sale contract which provides for the extension of open-end credit primarily for a personal, family, or household purpose shall disclose the annual percentage rate of the finance charge to be imposed under

the contract, the circumstances under which the finance charge will be imposed, and an explanation of how the finance charge will be determined.

(b) Every credit sale contract which provides for the extension of closed-end credit primarily for a personal, family, or household purpose shall [contain] disclose the following items[:] as applicable:

- (1) The [cash sale price of the goods which are the subject matter of the retail installment sale;] amount financed, which is the principal balance less any prepaid finance charge;
- (2) [The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods if any, traded in;] A written itemization of the amount financed, or a statement that the buyer has the right to receive a written itemization of the amount financed, together with space for the buyer to indicate whether it is desired;
- [(3) The difference between items (1) and (2);
- (4) The amounts, if any, charged for insurance and other benefits, specifying the coverages and benefits;
- (5) The amount of official fees, as defined in section 476-1;
- (6) The principal balance, which is the sum of items (3), (4), and (5);]
- [(7) (3) The [amount of the] finance charge[, which may be stated as a percentage of the monthly unpaid balance to accrue thereafter, if such finance charge is not capitalized or stated as a dollar amount in any of the documents or payment books connected with the transaction];
- [(8) (4) The [time balance, which is the sum of items (6) and (7), payable in installments by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and cents, and due date or period thereof if the finance charge is stated in a dollar amount;] total of payments; and
- [(9) (5) The [time] total sale price [if the finance charge is stated in a dollar amount].

Additional items may be included in the contract to explain the calculations involved in determining the stated [time balance] total of payments to be paid by the buyer.

(c) Every credit sale contract which complies with the disclosure requirements of the federal Truth in Lending Act as of the date upon which the contract is executed shall be deemed to comply with the disclosure provisions of section 476-3.

[§476-3.1] §476-5 Balloon payments. With respect to any sale of goods, services, or both, purchased primarily for a personal, family, or household purpose, which is subject to [the provisions of] this chapter, if any scheduled payment is more than twice as large as the average of earlier scheduled

payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. If the principal balance of the original [loan] contract is less than \$10,000, and the finance charge either is stated as a dollar amount and added on or deducted in advance or is computed at a fixed rate, the terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. These provisions do not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.

§476-6 Deferred payments, interest, etc. Any payment on account of the principal balance of a contract which is due on a particular date may be extended or deferred to a later date by mutual agreement, and, upon the amount of the principal balance payment so extended or deferred, a finance charge not exceeding that permitted by section 476-28 upon an original contract in the amount of the principal balance payment, for the actual period of the extension or deferment, may be charged and may be collected in advance at the commencement of the period of extension or deferment or thereafter; provided that the term and conditions of the extension or deferment, including the amount of the principal balance so extended or deferred, and the period of, and the charge for the extension or deferment, shall be set forth in writing and signed in duplicate by the buyer and the seller or holder of the contract, one copy of the same to be given to the buyer and the other copy to be inserted in or attached to the seller's or holder's counterpart of this contract.

[§476-4] §476-7 Contract copy to buyer; acknowledgment. (a) Upon the execution of the contract, a copy thereof, signed by the parties, shall be [immediately] delivered immediately to the buyer; provided[,] that if the contract is signed only by one party, and the signing thereof by the other is postponed, a copy thereof, as signed by the party, shall be [immediately] delivered immediately to the buyer.

(b) Until a copy of the contract signed by the parties is delivered to the buyer, a buyer who has not received delivery of the goods has the right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the contract. This subsection shall not apply when the merchandise has been specifically ordered or custom made to the specifications of the purchaser and evidence of the order is provided by the seller.

(c) Any acknowledgment by the buyer of delivery of a copy of the contract [shall be printed or written in a size equal to at least ten-point bold type, and], if contained in the contract, shall [also] appear [directly] on the same page of the contract and above the [legend required] notice above the buyer's signature and the words "CREDIT SALE CONTRACT" required by section [476-2.] 476-3. [However, this section shall not apply when the merchandise has been specifically ordered or custom made to the specifications of the purchaser and evidence of the order is provided by the seller.]

[§476-6] §476-8 Insurance provisions. The amount, if any, charged for insurance, shall not exceed the premiums chargeable in accordance with rate filings made with the commissioner of insurance for similar insurance. The seller or holder, if dual interest insurance on the goods is included in a [retail installment] credit sale contract, and a separate charge is made therefor, shall within thirty days after execution of the [retail installment] credit sale contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this State, clearly setting forth the amount of the premium, the kind or kinds of insurance, and the scope of the coverage and all the terms, exceptions, limitations, restrictions, and conditions of the contract or contracts of insurance. The buyer of goods under a [retail installment] credit sale contract may purchase such insurance from an agent or broker of his own selection, and in an insurance company of his own selection authorized to do business in this State; provided[,] that [this provision shall not prevent the exercise by] the seller or holder [of his, her, or its] shall have the right for reasonable cause to [approve or] disapprove of the insurance company selected by the buyer to underwrite the insurance.

In any [retail installment] credit sale contract for the sale of a motor vehicle where insurance is contracted for [in connection with, or] as a part of[,] the [installment] sale, and the insurance does not include public liability insurance for bodily injury and property damages, the [retail installment] contract shall contain, [immediately following] on the same page as the [statement] disclosures therein concerning insurance, [the following] a notice [printed or overstamped prominently in the form herein indicated in ten-point type or larger and in a different color than the print of the contract itself:] substantially similar to the following:

“THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE. IT DOES NOT MEET THE REQUIREMENTS FOR PROOF OF FINANCIAL RESPONSIBILITY UNDER [CHAPTER 287,] HAWAII [REVISED STATUTES] LAW.”

[The retail installment seller of a motor vehicle shall furnish a statement of the insurance coverage provided in the retail installment contract, if any, to the buyer and the buyer shall acknowledge the same in writing. The seller shall attach such statement to the retail installment contract.]

If any such policy or certificate is canceled, the unearned insurance premium refund received by the holder of the contract shall at the option of the holder either be credited to the final maturing installments of the [retail installment] credit sale contract or paid to the buyer, except to the extent applied toward payment for similar insurance protecting the interests of the buyer and holder of the contract or either of them.

[§476-7] §476-9 [Delinquency and collection] Late charges; court costs; attorney's fees. The holder of a [retail installment] credit sale contract, including any industrial loan company, may, if the contract so provides, collect a [delinquency and collection] late charge on each installment in default for a period not less than ten days in an amount not in excess of \$50 or³ five per cent of each delinquent installment [or \$5], or portion thereof which remains unpaid on the due date agreed upon in the contract whichever is less[.], and the late charge shall not be assessed more than once for the same delinquent installment. The seller or other holder shall give the buyer written notice of the assessment of the late charges prior to the due date of the next contractual payment. No late charges shall be assessed after the acceleration of the maturity of the contract. In addition to the [delinquency and collection] late charge, the [retail installment] contract may provide for the payment of costs of the action together with reasonable attorney's fees [or collector's fees] where the contract is referred for collection to an attorney or licensed collector who is not a salaried employee or officer of the holder of the contract.

[§476-8] §476-10 Blank spaces in contract; assignee without knowledge. [No retail installment contract shall be enforceable by the seller when it contains blank spaces to be filled in after it has been signed by the buyer; provided that, if delivery of the goods is not made at the time of the execution of the contracts, the identifying numbers or marks or similar information and the date of the first installment may be inserted in the contract after its execution.] **(a) When a paper whose contents at the time of signing show that it is intended to become a credit sale contract is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed. The burden of establishing that any completion is unauthorized is on the party so asserting. If the completion is unauthorized, and it changes the obligations of either the buyer or the seller in any respect, it is a material alteration.**

(b) An alteration by the holder of a contract which is both fraudulent and material discharges the buyer unless the buyer assents or is precluded from asserting the defense. No other alteration discharges the buyer, and the contract may be enforced according to its original tenor, or as to incomplete contracts according to authority given.

(c) The buyer's written acknowledgment, conforming to the requirements of section [476-4] 476-7, of delivery of a copy of a contract shall be a rebuttable presumption of such delivery and of compliance with this [subdivision] section in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

[§476-9] §476-11 Catalog mail order sales. [Retail installment] Credit sales negotiated and entered into by mail without personal solicitation by a salesman or other representative of the seller, and if seller's cash [and deferred

payment prices] price and other terms are clearly set forth in a catalog, or other printed solicitation of business, which is generally available to the public, may be made as [hereinafter] provided[. All of the provisions of this] in this section. This chapter shall apply to such sales except that the seller shall not be required to deliver a copy of the contract to the buyer as provided in section [476-4,] 476-7, and if, when the proposed [retail installment] credit sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect; and in lieu of the copy of the contract provided for in section [476-4, hereof] 476-7, the seller shall, within fifteen days from date of shipment of goods, furnish to the buyer a written statement of the items, inserted in such blank spaces.

[§476-10] **§476-12 Payment without notice of assignment.** Unless the buyer has notice of actual assignment of a [retail installment] credit sale contract, payment thereunder made by the buyer to the last known holder of the contract shall be binding upon all subsequent holders or assignees. The notice may be given by first class mail to the address of the buyer as shown in the contract or to the last known address of the buyer.

[§476-11] **§476-13 Statement and receipt of payments.** Upon written request from the buyer, the holder of a [retail installment] credit sale contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract. A buyer shall be given a written receipt for any payment when made in cash.

[§476-12] **§476-14 Acceleration of time [balance] payments³.** No provision in a [retail installment] credit sale contract by which, in the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the [time balance] payments shall be enforceable.

[§476-13] **§476-15 Confession of judgment; power of attorney; wage assignment.** No provision in a [retail installment] credit sale contract for confession of judgment, power of attorney therefor, or wage assignment shall be enforceable in this State.

[§476-14] **§476-16 Unlawful repossession.** No provision in a retail installment contract which authorizes seller or holder of the contract or other person acting on his behalf to enter upon the buyer's premises unlawfully, or to commit any breach of the peace in the repossession of the goods shall be enforceable.]

[§476-15] **§476-16 Waiver of illegal act; collection.** No provision in a [retail installment] credit sale contract by which the buyer waives any of the requirements of this chapter or any right of action against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the goods shall be enforceable.

[§476-16] §476-17 [Inclusion] Subsequent inclusion of other security [for time sale price]. [No] In a contract for a sale primarily for a personal, family, or household purpose, no provision [in a retail installment contract] for the subsequent inclusion of title to or a subsequent lien upon or a subsequent security interest in any goods, other than the goods which are the subject matter of or original security for the [retail installment] credit sale, or accessories [therefor,] thereto, or special or auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the time sale price, shall be enforceable.

[§476-17] §476-18 Appointment of agent; collection or repossession. No provision in a [retail installment] credit sale contract by which the buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on [his] buyer's behalf, as the buyer's agent in collection of payments under the contract or in the repossession of the goods shall be enforceable.

[§476-18] §476-19 Preservation of buyer's rights; assignment. [(a) Any sale of goods, subject to this chapter, which is a referral sale, is unenforceable and void, whether the inducement was written or oral, except as provided in subsection (d).]

[(b)] (a) No contract shall contain any provision by which a buyer agrees not to assert against a seller a claim or defense arising out of the sale or agrees not to assert against an assignee such a claim or defense [other than as provided in subsection (d)].

[(c)] (b) No contract shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller [except as provided in subsection (d)].

[(d)] (c) No rights of action or defense arising out of a [retail installment] credit sale which the buyer has against the seller shall be cut off by assignment[, and in the event]; provided that any recovery thereon by the buyer shall not exceed amounts paid and to be paid by the buyer on the contract and may be set-off against such amounts to be paid. If the buyer has a good cause of action or defense against the seller, the seller's assignee has recourse against the seller for any losses [he,] the assignee[,] may incur as a result thereof.

§476-20 Referral sales. Any sale of goods, services, or both, subject to this chapter, in which part of the inducement offered by the seller is a rebate, discount, commission, or other consideration exceeding forty per cent of the total sale price to be given the buyer when the buyer either sells, or gives information leading to a sale by the seller, of the same or related goods, services, or both, whether the inducement was written or oral, may be canceled by the buyer within fifteen business days after the date the contract is signed by the parties.

Upon cancellation the buyer shall have the right to receive immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the contract.

When the seller or holder has returned all money or property given by the buyer in the transaction, the buyer shall tender the goods to the seller or, where the latter would be impracticable or inequitable or the seller has performed services for the buyer, the buyer shall tender to the seller the reasonable value of the goods or services. At the buyer's option, tender of goods may be made at the location of the goods or at the buyer's residence. Tender of money shall be made at the designated place of business of the seller or holder. If the seller or holder does not take possession of the money or property within twenty calendar days after the buyer's tender, the buyer may keep it without further obligation.

In the alternative, if the buyer does not exercise the right to cancel a referral sale, the buyer shall have with respect thereto the remedies provided in section 476-21.

[§476-19] §476-21 Failure to comply; remedy of buyer[.]; penalty. In case of failure of the seller or holder to comply with [this chapter,] the requirements of sections 476-3, 476-5 to 476-9, 476-11, 476-13, 476-19, 476-20 (if the buyer does not exercise the right to cancel the contract), 476-22 to 476-24, and 476-28 the buyer has the right to recover from the seller or holder, as the case may be, an amount equal to the finance charge or ten per cent of the cash price if no finance charge is specified in the contract or supplementary statement, [whichever is the greater, plus reasonable attorney's fees.] and the seller is barred from recovery of any finance charge, late, or collection charge or refinancing charge on the credit sale contract involved.

Notwithstanding this section, the failure to comply with any provisions of this chapter may be corrected by the seller at any time after the execution of the credit sale contract, and before the institution of an action under this chapter or the seller is notified thereof in writing by the buyer, and if so corrected, neither the seller nor the holder is subject to any penalty under this or any other section of this chapter.

A seller or assignee may not be held liable in any action brought under this section if the seller or assignee shows by a preponderance of evidence that the failure to comply was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

In any successful action under this section the buyer shall be entitled to the costs of the action, together with a reasonable attorney's fee as determined by court.

[§476-20] §476-22 Cancellation of contract. After the payment of all sums for which the buyer is obligated under a [retail installment] credit sale

contract, the holder of the contract shall mail to the buyer at his last known address, good and sufficient instruments to indicate payment in full and to release all security [in the goods,] for the contract, and canceled negotiable instruments, if any, evidencing the indebtedness.

[§476-21] **§476-23 Credit upon anticipation of payments.** Notwithstanding [the] any provisions of [any retail installment] a credit sale contract to the contrary, [any] a buyer, upon five days' prior notice to the holder, may satisfy in full at any time before maturity the debt of [any retail installment] the contract and in so satisfying the debt shall receive a refund credit thereon for such anticipation of payments, if the finance charge has been paid in advance. The amount of the refund shall represent at least as great a proportion of the total finance charge, less an acquisition cost of \$10, as the sum of the periodical time balances, after the day of prepayment, bears to the sum of all the periodical time balances under the schedule of payments in the contract. When the amount of the credit for anticipation of payments is less than \$1, no refund need be made.

[§476-22 **Penalties.** Any person who wilfully and knowingly violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.

Any person violating any of the provisions of sections 476-2 to 476-19, or any person wilfully and knowingly acquiring a retail installment contract with knowledge of such violation by any person is barred from recovery of any finance charge, delinquency, or collection charge or refinancing charge on the retail installment contract involved.

Notwithstanding this section, the failure to comply with any provisions of this chapter may be corrected by the seller at any time after the execution of the retail installment contract or in any event not later than ten days after the seller is notified thereof in writing by the buyer, and, if so corrected, neither the seller nor the holder is subject to any criminal penalty under this or any other section of this chapter.]

[§476-23 **Waiver.** Any provision in a retail installment contract waiving any of the requirements of this chapter shall be unenforceable and void.]

[§476-29] **§476-24 Additions to and consolidations of [retail installment] credit sale contracts.** Where a buyer makes any subsequent purchases of goods from a seller from whom [he] the buyer has previously purchased goods under one or more [retail installment] credit sale contracts[,] which provide for the extension of closed-end credit, and the amounts under the contract or contracts have not been fully paid, the previous purchases may be included in and consolidated with one or more of the subsequent contract or contracts, or the subsequent purchases may be included in and consolidated with one or more of the prior contract or contracts[. A] in which case a memorandum of such additional purchases shall be prepared by the seller[,] and inserted in or attached

to the seller's counterpart of the contract [and]. The memorandum shall set forth:

- (1) A description of the additional goods so purchased;
- (2) The consolidated total indebtedness of the buyer;
- (3) The finance charge [stated either as (A) additional amount on the subsequent purchases, (B) the total amount on the consolidated contract, or (C) a percentage of the monthly outstanding balance;] which shall include any unearned portion of the old finance charge that is not credited to the prior contract or contracts;
- (4) The annual percentage rate; and
- [(4)] (5) The revised installment payments.

A copy of the memorandum shall be furnished to the buyer prior to the due date of the first installment following the subsequent purchase.

Every memorandum which complies with the disclosure requirements of the federal Truth in Lending Act as of the date upon which the contract is executed shall be deemed to comply with the disclosure provisions of section 476-24.

When such subsequent purchase is made, the entire amount of all payments made previous to the subsequent purchase shall be applied toward the payment of the previous purchase or purchases and each payment thereafter received shall be first applied to the payment of purchases first made. To the extent purchases are paid for according to this section, security interests in the goods which are the subject matter of the retail installment sale shall terminate as the payment with respect to each purchase is made.

[Payments] Unless otherwise expressly stated in the contract, payments received by the seller upon a revolving charge account shall be applied first to the payment of finance charges, then to late charges, costs of action, and attorney's fees in the order of their entry to the account, and then to the payment of purchases in the order in which the entries to the account showing the purchases were made.

[If the contracts consolidated arose from two or more purchases made on the same day, payments received by the seller shall be applied first to the payment of the purchase totaling the smallest amount.

This section shall not apply in cases involving equipment, parts, or other merchandise attached or affixed to goods previously purchased or repairs or services rendered by the seller in connection therewith at the buyer's request.]

[§476-30] §476-25 Prohibition of removal or sale without notice. Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from the island in which the goods are first kept for use by the buyer after the sale and sell, mortgage, or otherwise dispose of [his] buyer's interest in [them] the goods; but prior to full compliance by the buyer with the terms of the contract [by the buyer], [no such] the buyer shall not

remove the goods from the island except for temporary use for a period of not more than thirty days unless the buyer not less than ten days before the removal gives the seller written notice, either personally or by registered or certified mail, of the place to which the goods are to be removed and the approximate time of the intended removal; [nor] and prior to [the performance of the condition] full compliance by the buyer with the terms of the contract the buyer shall not [the buyer] sell, mortgage, or otherwise dispose of [his] buyer's interest in the goods, unless [he or] the person to whom [he] the buyer is about to sell, mortgage, or otherwise transfer the goods notifies the seller in writing, either personally or by registered or certified mail, of the name and address of the person to whom [his] buyer's interest in the goods is about to be sold, mortgaged, or otherwise transferred.

[§476-31] **§476-26 Removal; member of armed forces.** Notwithstanding the provisions of section [476-30,] 476-25, a member of the armed forces of the United States on active duty who is a buyer of a motor vehicle under a contract [may], without the consent of the seller, may remove the motor vehicle from the island in which the motor vehicle was first kept for use by the buyer after sale if the buyer was a member of the armed forces of the United States on active duty at the time of execution of the contract and if such buyer has been reassigned to a different county, state, or country by competent government orders, unless the seller and buyer execute an agreement, separate and apart from the contract in respect of which it applies, stating that the motor vehicle may not be removed or stating the terms and conditions under which it may be removed.

[This section shall apply only to documents executed after June 5, 1967.]

[§476-32] **§476-27 Fraudulent injury, concealment, removal, or sale; penalty.** When, in violation of the terms of the contract [by the buyer,] the buyer, maliciously or with intent to defraud, injures, destroys, or conceals the goods, or, without the consent of the seller, maliciously or with intent to defraud, removes [them] the goods from the island in which [they] the goods were first kept for use by the buyer after the sale, or to which with the consent of the seller [they] the goods have been removed, or [shall sell, mortgage,] sells, mortgages, or otherwise [dispose] disposes of the goods under claim of full ownership, [he] the buyer shall be fined not more than \$500 or imprisoned not more than one year, or both.

[§476-33] **§476-28 Regulation of finance charges.** It shall be unlawful, directly or indirectly, to charge, contract for, collect, or receive any finance charge, on a [retail installment] credit sale contract except as is provided by this section.

[The]

- (1) If the finance charge is stated as a dollar amount and is added on or deducted in advance, and the buyer promises to pay a fixed total of payments, the finance charge shall not exceed the amount of

interest or discount which could lawfully be added on or deducted in advance by an industrial loan company under chapter 408 on a loan to run for the same period as the [retail installment] credit sale contract, where the actual cash received by the borrower [after the deduction of interest in advance] would be equal in amount to the [time] principal balance of the [retail installment] credit sale contract, provided that a minimum finance charge of not more than \$10 shall be allowable in a [retail installment] credit sale when the finance charge is stated in a dollar amount. Upon maturity of a contract, the rate of finance charge on the unpaid principal balance of the contract shall be eighteen per cent a year, unless a lesser rate for after maturity finance charge is specified in the contract.

- (2) As an alternative to the finance charge authorized by paragraph (1), a seller may contract for and receive a finance charge at a rate not exceeding twenty-four per cent a year on the principal balance remaining unpaid from time to time under the contract, whether or not the rate of the finance charge under the contract is fixed or variable. Upon maturity of a contract, the rate of finance charge on the unpaid principal balance of the contract may be twelve per cent a year, the original contract rate of finance charge or, in the case of any extension or deferral, the rate of finance charge permitted by this chapter on the amount extended or deferred, whichever is greatest.

[§476-34 Security interest in seller governed by Uniform Commercial Code. Every provision in a retail installment contract reserving a security interest in the seller after possession of the goods is delivered to the buyer shall be governed by the Uniform Commercial Code, chapter 490, except as in this chapter otherwise provided.]

[§476-35] §476-29 Advertising in connection with [retail installment] credit sales. (a) Any person who advertises by television, radio, telephone, newspaper, magazine, other printed material, or in any other way, for the credit sale of goods or services primarily for personal, family, or household purposes under an open-end credit plan and who in such advertising recites any of the terms required by section 476-4(a) to be disclosed in the same advertisement shall recite:

- (1) Any minimum, fixed, transaction, activity, or similar charge that could be imposed;
- (2) The annual percentage rate, and if the plan provides for a variable periodic rate, that fact; and
- (3) Any membership or participation fee that will be imposed.

(b) Any person who advertises by television, radio, telephone, newspaper, magazine, other printed material, or in any other way, for the [retail installment]

credit sale of goods or services[,] primarily for personal, family, or household purposes, under a contract providing for the extension of closed-end credit, and who in such advertising recites [the down payment or] amount or percentage of any down payment, the number of payments, the period of payment, the amount of [installment payments] any payment, or [both] the amount of any finance charge, shall in the same advertisement recite [the total sale price, the period of time over which the installment payments are to be made, and the total amount of goods or services to which the total sale price relates.];

- (1) The amount or percentage of the down payment;
- (2) The terms of repayment; and
- (3) The annual percentage rate, if the rate may be increased after the buyer becomes contractually obligated on the contract.

(c) Every advertisement which complies with the requirements of the federal Truth in Lending Act as of the date upon which the advertisement is published shall be deemed to comply with the disclosure provisions of this section.

(d) This section shall not apply to catalog offers to sell which conform to the requirements of section [476-9.] 476-11.

[§476-36 Negotiability of notes; consumer goods on credit. If any contract for sale of consumer goods on credit entered into in this State between a retail seller and a retail buyer requires or involves the execution of a promissory note, whether the note is made payable in one lump sum or installment, the note shall be printed or written on the face thereof the words "consumer note" and such a note with the words "consumer note" printed or written thereon shall not be a negotiable instrument within the meaning of the Uniform Commercial Code, chapter 490, Article 3. For the purposes of this section "consumer goods" means tangible personal property used or bought for use primarily for personal, family or household purposes.

Whoever obtains a note in violation of this section shall be punished by a fine of not less than \$100 nor more than \$500.

If a note is obtained in violation of this section, no finance, delinquency, collection, repossession, or refinancing charges may be recovered in any action or proceeding based on such contract for sale.

This section shall not apply to any notes executed in connection with any financing which is insured under Federal Housing Administration regulations.]

§476-30 Territorial application. (a) Except as otherwise provided in this section, this chapter applies to a credit sale entered into in this State. For the purposes of this chapter a credit sale is entered into in this State if:

- (1) The contract does not provide for purchases to be made from time to time, and either a signed writing evidencing the obligation or offer of the buyer is received by the seller in this State, or the seller

induces the buyer who is a resident of this State to enter into the transaction by face-to-face solicitation in this State; or

- (2) The contract does provide for purchases to be made from time to time, and either the buyer's communication or indication of intention to enter into the contract is received by the seller in this State or, if no communication or indication of intention is given by the buyer before the first transaction, the seller's communication notifying the buyer of the privilege of making purchases is mailed in this State.

(b) A credit sale to which this chapter does not apply entered into with a buyer who is a resident of this State at the time of the credit sale is valid and enforceable in this State to the extent that it is valid and enforceable under the laws of another jurisdiction, but:

- (1) A seller may not collect through actions or other proceedings in this State a finance charge exceeding the total amount permitted if section 476-28 were applicable; and
- (2) A creditor may not enforce rights against the consumer in this State with respect to the provisions of agreements that violate section 476-5, 476-9, or 476-14 to 476-19.

(c) Except as provided in subsection (b), a credit sale entered into in another jurisdiction is valid and enforceable in this State according to its terms either to the extent that it is valid and enforceable under the laws of the other jurisdiction or to the extent that it is valid and enforceable under the laws of this State if the contract provides that it shall be governed by the laws of this State.

(d) For the purposes of this chapter, the residence of a buyer is the address given by the buyer as the buyer's residence in the contract signed by the buyer until the buyer notifies the seller of a different address as the buyer's residence, and is then the different address.

(e) Notwithstanding other provisions of this section:

- (1) This chapter does not apply if the buyer is not a resident of this State at the time of a credit sale and the buyer and seller have agreed that the law of the buyer's residence applies; and
- (2) This chapter applies if the buyer is a resident of this State at the time of a credit sale and the parties have agreed that the law of the buyer's residence applies.

(f) Each of the following agreements or provisions of an agreement by a buyer who is a resident of this State at the time of a credit sale is invalid with respect to the transaction:

- (1) That the law of another jurisdiction apply;
- (2) That the buyer consent to be subject to the process of another jurisdiction;
- (3) That the buyer appoints an agent to receive service of process;

(4) That fixes venue; and

(5) That the buyer consents to the jurisdiction of a court that does not otherwise have jurisdiction.

[§476-37] **§476-31 Attorney general, director of consumer protection, or prosecutor to enforce chapter.** The attorney general, the director of the office of consumer protection, or the prosecuting attorney may bring an action in the name of the State against any person to restrain and prevent any violation of this chapter.

[§476-38] **§476-32 Short title.** This chapter may be cited as "The [Retail Installment] Credit Sales Act."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance, is held to be invalid, the invalidity does not affect any other provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon its approval, shall take effect on July 1, 1985. Any seller, however, may with respect to any or all credit sales by such seller comply with the amendments made by this Act prior to such effective date. Any seller who elects to comply with such amendments and any assignee of such a seller shall enjoy [their] the⁴ respective rights and privileges and be subject to [their] the⁴ respective duties and obligations under this Act, including without limitation section 476-21, Hawaii Revised Statutes, as amended by section 1 of this Act. Any seller who on July 1, 1985, has on hand an existing supply of printed forms that complies with the requirements of chapter 476, Hawaii Revised Statutes, before the amendments made by this Act take effect may utilize that existing supply until it is exhausted but in no event later than July 1, 1986.

(Approved May 1, 1984.)

Notes

1. The word "to" added by revisor.
2. "476-27(1)" in original.
3. Underscoring missing.
4. So in original.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-175, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Commencing on September 1, 1980, and every [five] four years thereafter, the children’s mental health services branch, on or before September 1 of each [five-year] four-year cycle, shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children’s mental health services plan which shall include:

- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
- (2) Identification of the public and private providers of mental health services to children and youth;
- (3) Identification of the criteria and standards for the treatment to be received by emotion-disturbed or mentally ill children and youth;
- (4) A program for the recruitment, orientation, and inservice training of personnel in community mental health services to children and youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and other public and private agencies having relevant expertise;
- (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
- (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
- (7) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children’s mental health services.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

A Bill for an Act Relating to Feed.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 144-5, Hawaii Revised Statutes, is amended to read as follows:

"§144-5 Inspection fees. (a) There shall be paid to the department for all [commercial] feeds distributed or imported for use or sale in this State [an inspection fee; provided that custom-mixed feeds are exempted if the inspection fee is paid on the commercial feeds which they contain; and provided further that sales of commercial feeds to manufacturers or exchanges between them are exempted if the commercial feeds so sold or exchanged are used solely in the manufacture of commercial feeds which are registered;], inspection fees to reasonably cover the costs of inspecting, sampling, and analyzing feed for the requirements of this chapter and rules adopted pursuant to it; provided that the department shall exempt by rule the payment of inspection fees on feed not subject to specific requirements of this chapter; and provided further that a distributor shall pay an annual registration fee for each brand of [commercial] feed distributed in individual packages of ten pounds or less, and the distributor of the brand shall not be required to pay the inspection fee on the packages of the brand so registered; and provided further that toll-milled feeds are exempted]. All fees collected shall be deposited with the state director of finance to the credit of the general fund.

(b) Every person, except as hereinafter provided, who distributes or imports for use or sale [commercial or custom-mixed] feed in this State shall:

- (1) File, not later than the last day of January, last day of April, last day of July, and last day of October of each year, quarterly statements, setting forth the number of net tons of [commercial or custom-mixed] feeds distributed or imported in this State during the preceding calendar quarter; and upon filing the statements shall pay the inspection [fee.] fees. Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a penalty fee [of five per cent] in an amount established by rules of the department added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the department from taking other action as provided in this chapter. When more than one person is involved in the distribution or importation of a [commercial] feed, the person who imports or distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor, seller, or

exporter of the [commercial] feed. [If the inspection fee has been paid on a commercial simple feed which is subsequently converted into a commercial mixed or custom-mixed feed for distribution, the person responsible for the mixing shall be required to pay an additional inspection fee per ton on the amount of commercial simple feed that has been so converted.]

- (2) Keep such records as may be necessary or required by the department to indicate accurately the tonnage of [commercial or custom-mixed] feed distributed in this State, and the department shall have the right to examine the records to verify statements of tonnage. Failure to make accurate statement of tonnage or to pay the inspection fee or to comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

(c) The department may require the filing of further reports with respect to importation and distribution of feed by carriers, seller's agents, distributors, and named consignees."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect 240 days after approval or upon adoption of rules by the department of agriculture establishing new inspection fees and exemptions, whichever comes first.

(Approved May 1, 1984.)

ACT 89

H.B. NO. 1797-84

A Bill for an Act Relating to Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 516-44, Hawaii Revised Statutes, is amended to read:

"§516-44 **Fee simple residential revolving fund.** A fee simple residential revolving fund is hereby created. The funds appropriated for the purposes of this chapter and chapter 519 and all moneys received or collected by the Hawaii housing authority under this chapter and chapter 519 shall be deposited in the revolving fund. The proceeds in the funds shall first be used to pay the principal and interest on bonds or other indebtedness issued by the authority, or by the State, and then for necessary expenses of the authority in administering [this part.] chapters 516 and 519. All interest earned on moneys deposited by lessees into this revolving fund shall accrue to the lessees.

Moneys in the fund shall be used to pay all costs of [this chapter] chapters 516 and 519 including administration."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

ACT 90

H.B. NO. 1854-84

A Bill for an Act Relating to Statutory Revision.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 23G-15, Hawaii Revised Statutes, is amended to read as follows:

"§23G-15 Supplements and replacement volumes; extent of revision; prima facie the law. In preparing the supplements and replacement volumes, the revisor of statutes may:

- (1) Number and renumber chapters, sections, and parts of sections;
- (2) Rearrange sections;
- (3) Change reference numbers to agree with renumbered chapters, parts, or sections;
- (4) Substitute the proper section or chapter numbers for the terms "the preceding section", "this act", and like terms;
- (5) Strike out figures where they are merely a repetition of written words;
- (6) Change capitalization for the purpose of uniformity;
- (7) Correct manifest clerical or typographical errors; [and]
- (8) Change any male or female gender term to a term which is neutral in gender when it is clear that the statute is not applicable only to members of one sex and without altering the sense, meaning, or effect of any act; and

- [(8)] (9) Make such other changes in any act incorporated in the supplements and replacement volumes as shall be necessary to conform the style thereof as near as may be with that of the last revision of the laws of Hawaii; provided that in making the revision, [he] the revisor shall not alter the sense, meaning, or effect of any act.

The matter set forth in the supplements and replacement volumes shall be prima facie evidence of the law."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

ACT 91

H.B. NO. 1980-84

A Bill for an Act Relating to Electronic Eavesdropping.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 803-50, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 92

H.B. NO. 2039-84

A Bill for an Act Relating to the Capital Loan Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

“§210-6 Direct loans, terms, and restrictions. The department of planning and economic development may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of planning and economic development.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of [\$100,000.] \$250,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at the rate of seven and one half per cent a year.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984)

ACT 93

H.B. NO. 2116-84

A Bill for an Act Relating to the Driver Improvement Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-108.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Every employer who employs any person as a regularly employed driver of motor vehicles listed in section 286-102(c), shall provide for every such driver employed by him a driver improvement program which shall include a system for continuous driver evaluation, annual driver safety courses approved by the state director of transportation, provided that for drivers with five years of continuous experience with one employer, this requirement shall be biennial, and such other activities as may be required by rules [and regulations] adopted by the state director of transportation pursuant to chapter 91. Every organization through which a driver of a motor vehicle listed in section 286-102(c) is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all drivers who are hired for casual or sporadic employment through the organization. An individual is casually or sporadically employed if he is temporarily engaged only for a particular job or project and not as a regular employee of the employer. Any employer or organization that violates this subsection shall be fined not more than \$500. Every regularly or casually employed driver of motor vehicles listed in section 286-102(c) shall attend the

driver improvement program provided for him by his employer or organization. The director of transportation shall adopt rules pursuant to chapter 91 necessary for the purposes of this subsection, including but not limited to rules governing attendance. Any driver who does not fulfill the appropriate driver improvement attendance requirement shall be fined not more than \$100. For purposes of this subsection only, the word "organization" shall not include any labor union with a job placement center. A job placement center shall mean any system involving the registration of persons for purposes of employment, and the dispatching of these persons to various jobs as they become available."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

ACT 94

H.B. NO. 2233-84

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by amending the definition of "dangerous to self" to read as follows:

" "Dangerous to self" means [likely to do substantial physical injury to one's self, as evidenced by a recent act, attempt or threat to injure one's self physically or by neglect or refusal to take necessary care for one's own physical health and safety together with incompetence to determine whether treatment for mental illness or substance abuse is appropriate.] the person recently has threatened or attempted suicide or serious bodily harm; or the person recently has behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1984.)

A Bill for an Act Relating to Statutory Revision: Amending Various Provisions of the Hawaii Revised Statutes for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-55, Hawaii Revised Statutes, is amended to read as follows:

"§103-55 Wages, hours, and working conditions of employees of contractors supplying services. (a) Before any prospective bidder is entitled to submit any bid for the performance of any contract to supply services in excess of \$5,000 to any governmental agency, [he] the bidder shall certify that the services to be performed will be performed under the following conditions:

Wages. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

(b) No contract to perform services for any governmental contracting agency in excess of \$5,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$5,000 to enforce this section.

(c) This section shall apply to all contracts to perform services in excess of \$5,000, including contracts to supply ambulance service and janitorial service.

This section shall not apply to:

- (1) Managerial, supervisory, or clerical personnel.
- (2) Contracts for supplies, materials, or printing.
- (3) Contracts for utility services.
- (4) Contracts to perform personal services under paragraphs (2), (3), (12), and [(16)] (15) of section 76-16.
- (5) Contracts to operate refreshment concessions in public parks, or to provide food services to educational institutions.
- (6) Contracts with nonprofit institutions."

SECTION 2. Section 188-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It is unlawful for any person to use nets or traps including bullpen traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

- (1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,
- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh to take aquarium fish in conformance with the conditions of the permit, [and]
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October[.], and
- (7) For the purposes of measuring the length of a trap under this section, the length of a bullpen trap described under section 188-28.5 shall include and be measured as the length of the material utilized to guide aquatic life into the receptacle or length of the receptacle itself.”

SECTION 3. Section 237-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return or to wilfully permit any such return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer’s authorized agent, or persons

with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
 - (2) Partners;
 - (3) Persons named in a board resolution or a one per cent shareholder in case of a corporate return;
 - (4) The person authorized to act for a corporation in dissolution;
 - (5) The shareholder of a [subchapter] S corporation;
 - (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in case of the estate's or decedent's return;
 - (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
 - (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
 - (9) Persons duly authorized by the State in connection with their official duties;
 - (10) Any duly accredited tax official of the United States or of any state or territory; and
 - (11) The Multistate Tax Commission or its authorized representative.
- Any violation of this subsection shall be a misdemeanor."

SECTION 4. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read as follows:

" "Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term [(1) means]:

- (1) Means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility;
- (2) [shall] Shall not include any person insofar as such person owns or operates an aerial transportation enterprise;
- (3) [shall] Shall not include persons owning or operating taxicabs, as defined herein;

- (4) [shall] Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter;
- (5) [shall] Shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;
- (6) [shall] Shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and
- (7) [shall] Shall not include any person [which] who (A) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (B) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in [(3)] paragraphs (4) and [(4)] (5) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20."

SECTION 5. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

"§346-29 Applications for public assistance; manner, form, conditions. Applications for public assistance under this chapter shall be made by the applicant, or by someone acting in the applicant's behalf, in the manner, place, and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a standard above that provided in this chapter, or who is an inmate of any public institution as long as the Social Security Act precludes the use of federal funds to provide public assistance to an inmate of such an institution, but an inmate of such an

institution mentioned in this section may apply for assistance to begin after [his] the inmate's discharge from the institution. In determining the needs of an applicant or recipient for public assistance by the department, the department:

- (1) Shall disregard such amounts of earned or unearned income and resources as required by the Social Security Act or other federal acts, to receive federal matching funds and may disregard such additional amounts as these acts permit, now or in the future, to be disregarded.
- (2) Shall consider as net income in all cases such income as the Social Security Act or other federal acts may require the department to consider for receipt of federal matching funds and may consider such additional income and resources as these acts may permit, now or in the future, to be considered.
- (3) Shall disregard a total in liquid assets equal to the maximum possible financial assistance by family size multiplied by a factor of 1.5 and rounded to the nearest \$5 in determining the needs of persons for [money payments;] financial assistance; provided that the amount to be disregarded, shall not exceed standards under federally funded financial assistance programs. This provision shall apply to the general assistance program but shall not apply to persons eligible for federal supplemental security income benefits. In determining the needs of such persons, the department shall apply the eligibility requirements under the federal supplemental security income program.
- (4) Shall disregard a total of at least \$1,500 in liquid assets in determining the needs of a single person for medical assistance only.
- (5) Shall disregard a total of at least \$2,250 in liquid assets in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only.

In determining eligibility for medical assistance, the department shall require from all applicants and recipients the assignment of any benefits due to a third party liability. Any rights or amounts so assigned shall be applied against the cost of medical care paid under this chapter.

The director shall adopt rules pursuant to chapter 91 defining "liquid assets" and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as liquid assets."

SECTION 6. Section 409-28, Hawaii Revised Statutes, is amended to read as follows:

“§409-28 Refusal to testify; contempt. Whenever a witness summoned or appearing before the [deputy] bank examiner or any person or persons duly designated by [him,] the bank examiner, as in section 409-24 provided, fails or refuses to testify or to produce any books, papers, or other documents relating to any matter under inquiry before the [deputy] bank examiner or any such person or persons, the [deputy] bank examiner shall report the matter in writing to any circuit judge of the circuit in which the hearing or examination is held, and the witness shall be cited to appear before the circuit judge and be required to testify or to produce the books, papers, or other documents. If the witness refuses to testify or to produce the books, papers, or other documents when so cited by the circuit judge [he] the witness shall be cited to appear before the judge and be required to show cause why [he] the witness should not be punished for contempt of court, as provided in [chapter 729,] section 710-1077, and be subject to all penalties thereunder.”

SECTION 7. Section 442-10, Hawaii Revised Statutes, is amended to read as follows:

“§442-10 Proceedings for revocation or suspension of license. (a) In any proceeding for the revocation or suspension of a license under this chapter for any act or condition listed in section 442-9, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The person whose license is sought in such proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding.

(b) If any person called before the board as a witness in such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to [him] the witness by the board, a member thereof, or the person whose license is sought to be revoked or suspended in such proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why [he] the person should not be punished for contempt of court under [chapter 729,] section 710-1077.

(c) Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury."

SECTION 8. Section 444-25.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~444-25.5] **Disclosure.** Any licensed contractor entering into a contract involving home improvements shall upon or before signing the contract, but before the application for a building permit:

- (1) Explain verbally in detail to the owner all lien rights of all parties performing under the contract including the homeowner, the contractor, any subcontractor or any materialman supplying commodities or labor on the project.
- (2) Explain verbally in detail the owner's option to demand bonding on the project, how such a bond would protect the owner and the approximate expense of such a bond.
- (3) Secure signatures of the owner on a separate form approved by the contractors license board, which shall be printed in at least 12 point type and in the same language in which the contract was negotiated and which shall contain the provisions set out in [subsections (a)] paragraphs (1) and [(b).] (2).
- (4) Violation of this section shall be deemed an unfair or deceptive practice and shall be subject to provisions of chapter 480, as well as the provisions of this chapter.
- (5) The contractors license board is authorized and directed to develop the disclosure form pursuant to this section."

SECTION 9. Section 460-14, Hawaii Revised Statutes, is amended to read as follows:

"§460-14 Notice of charges; hearing. (a) In any proceedings before the board for the revocation or suspension of a license under this chapter, upon any of the grounds listed in section 460-12, the person whose license is sought to be revoked or suspended shall be given, pursuant to chapter 91, reasonable written notice of the charge or charges upon which the proceeding is based and of the time and place where a hearing will be held and shall be given reasonable opportunity to be heard and present evidence in the person's defense.

In the proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose

license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in the proceeding, and shall be entitled to examine the witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

(b) If any person called before the board as a witness in the proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to the person by the board, a member thereof, or the person whose license is sought to be revoked or suspended in the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why the person should not be punished for contempt of court under [chapter 729.] section 710-1077.

(c) Any person who wilfully and knowingly makes, under oath, any false statement in connection with any proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury."

SECTION 10. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

"§465-13 Denial, suspension, revocation of license, or probation of a license holder. The board of certification for practicing psychologists shall refuse to grant a license to any applicant and may revoke or suspend any [certificate,] license, or may place a license, or may put a license holder on conditional probation, upon any of the following grounds:

- (1) Professional misconduct or gross carelessness or manifest incapacity in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or license holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;

- (5) Any unethical practice of psychology as defined by the board in accordance with its own rules.”

SECTION 11. Section 554-4, Hawaii Revised Statutes, is amended to read as follows:

“§554-4 Annual account; trustees to file. Every trustee acting under appointment of any court or under any appointment requiring the approval of any court, shall, except in cases where the prior trustee, if any, was not required by statute or the instrument creating the trust or appointing the trustee to file such an account, file annually with the court having jurisdiction thereof an account showing in detail all [his] receipts and disbursements, together with a full and detailed inventory of all property in [his] the trustee's possession or under [his] the trustee's control; provided that the court in cases in which it deems it advisable in the interests of the beneficiaries may permit the accounts to be filed biennially or triennially instead of annually or, if they are filed annually, may permit them to accumulate to be passed upon biennially or triennially; and provided further that the court on its own examination or that of its clerk, shall, without reference to a master, pass upon the accounts in cases in which the annual income does not exceed \$1,000, except in the case of a final account when the court may refer the same to a master, irrespective of the amount of the annual income, if for any reason it is deemed proper or necessary. If any such trustee fails to file [his] an account as herein required, the clerk of the court in which the trustee is required to file the account, shall notify [him] the trustee promptly of such failure, and, if the trustee fails to file [his] the account within thirty days after such notification, [he] the trustee shall be cited to appear before the court and be required to show cause why [he] the trustee should not be punished for contempt of court as provided by [chapter 729] section 710-1077 and [he] the trustee shall be subject to all of the penalties in such [chapter] section provided. The court may also, in its discretion, remove any such trustee.

Unless otherwise required by the instrument creating the trust, nothing [herein] in this section shall be construed to require the filing of an annual account by a trustee or trustees appointed by the court as additional trustee or trustees to serve with or in the place and stead of a trustee or trustees appointed in the instrument creating a trust, nor by a trustee whose appointment is made in accordance with or pursuant to the instrument creating the trust where such appointment has been confirmed by any court in proceedings brought to secure the confirmation or approval thereof. This provision applies to trusts existing on May 13, 1935, and appointments made thereunder as well as to future trusts.”

SECTION 12. Chapter 846, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“HAWAII CRIMINAL JUSTICE DATA CENTER;
CIVIL IDENTIFICATION”**

SECTION 13. Section 846-32, Hawaii Revised Statutes, is amended to read as follows:

“§846-32 Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc. (a) If, after registration, the name of any registrant is legally changed by marriage, divorce, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant’s citizenship status, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship status, **[[]shall[]]** report the change and present the registrant’s certificate of identification to the department of the attorney general and pay to the department a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship). The department, upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of the department.

(b) If any error has been made in any item of information contained in the records of the department or the certificate of identification concerning any registrant, the department, of its own motion, or upon application by the registrant, and upon receipt of evidence satisfactory to it that error has been committed, with the approval of the attorney general or the attorney general’s specially authorized representatives, may correct the error and, in such case, shall make appropriate changes or notations stating the error and the correct information upon the records of the department and the certificate of identification.

(c) In case any item of personal information originally correct with respect to any registrant shall change after registration, the change, if material, may be registered by the department and the records and certificate of identification may be altered to conform thereto, upon receipt by the department of satisfactory evidence as to the change and the approval of the attorney general or the attorney general’s specially authorized representative and the payment of a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship).”

SECTION 14. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1984, whether enacted before or after the effective date of this Act, unless such other acts specifically provided otherwise.

SECTION 15. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 16. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

ACT 96

H.B. NO. 1764-84

A Bill for an Act Relating to the Uniform Securities Act (Modified).

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485-4, Hawaii Revised Statutes, is amended to read:

"§485-4 Exempt securities. The following securities are exempt from sections 485-8 and 485-25(a)(7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state or territory or any investment certificate issued by an industrial loan company duly licensed under the industrial loan law of the State of Hawaii;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;
- (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;

- (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
- (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;
- (8) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;
- (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
- (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;
- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan;
- (12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act;
- (13) Any security issued by an "investment company" as defined by and registered under the "Investment Company Act of 1940" (15 U.S.C. §80a);
- (14) Any cooperative association membership stock, membership certificates or share, or membership capital, pursuant to section 421C-36, or chapters 421 or 422[.]; and

- (15) Any security for which a registration statement has been filed under the Securities Act of 1933, provided that no sale shall be made until such registration statement has become effective."

SECTION 2. Section 485-8, Hawaii Revised Statutes, is amended to read:

"§485-8 Registration of securities. It shall be unlawful for any person to sell or offer to sell any security except of a class exempt under section 485-4 or unless sold or offered in any transaction exempt under section 485-6 in the State unless the security has been registered by notification[,] or by qualification[,] [or by coordination,] as hereinafter provided. Registration of stock shall be deemed to include the registration of rights to subscribe to the stock if the notice under section 485-9 or the application under section 485-10 [or the registration statement under section 485-11] includes a statement that the rights are to be issued. A record of the registration of securities shall be kept in a register of securities to be kept in the office of the commissioner of securities in which register shall also be recorded any orders entered by the commissioner with respect to the securities. The register and all information with respect to the securities registered therein shall be open to public inspection."

SECTION 3. Section 485-11, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 485-11.5, Hawaii Revised Statutes, is amended to read:

"[[]§485-11.5[]] Request for private consultant. Upon the filing of the application for registration of securities as provided in [sections] section 485-9[,] or section 485-10, [485-11] or application for exemption of securities as provided in section 485-7, the applicant may, in writing, request that the registration be prepared by a private consultant, and when requested the commissioner may contract with private consultants for such review. The cost of the review shall be borne by the applicant; provided that upon payment of the cost of review, the applicant shall be reimbursed one-half of the respective filing fee."

SECTION 5. Section 485-12, Hawaii Revised Statutes, is amended to read:

"§485-12 Commissioner as agent to accept service; consent to; actions in what circuit; notice to issuer. Upon any application for registration by notification under section 485-9 made by an issuer and upon any application for registration by qualification under section 485-10 [or for registration by coordination under section 485-11] whether made by an issuer or registered dealer, where the issuer is not domiciled in the State, there shall be filed with the application the irrevocable written consent of the issuer that in suits, proceedings, and actions growing out of the violation of this chapter, the service on the

commissioner of securities of any notice, process, or pleading therein, authorized by the laws of the State, shall be as valid and binding as if due service had been made on the issuer. Any such action shall be brought either in the circuit of the plaintiff's residence or in the circuit in which the commissioner has his office. The written consent shall be authenticated by the seal of the issuer, if it has a seal and by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it is an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association, authorizing the officers to execute the same. In case any process or pleadings mentioned in this chapter are served upon the commissioner it shall be by duplicate copies, one of which shall be filed in the office of the commissioner and another immediately forwarded by the commissioner by registered mail to the principal office of the issuer against which the process or pleadings are directed."

SECTION 6. Section 485-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The commissioner of securities may issue a stop order denying effectiveness to, or suspending, or revoking the effectiveness of, any registration if he finds that the order is in the public interest and that:

- (1) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 485-10(f) as of its effective date is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
- (2) This chapter or any rule, order, or condition lawfully imposed under this chapter has been wilfully violated, in connection with the offering, by (A) the person filing the registration statement, (B) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person, directly or indirectly, controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or (C) any underwriter;
- (3) The security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but

- (A) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the order or injunction relied on, and (B) he may not enter an order under this clause on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;
- (4) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;
 - (5) The offering has worked or tended to work a fraud upon purchasers or would so operate;
 - (6) The offering has been or would be made with unreasonable amounts of options, underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation;
 - (7) When a security is sought to be registered by notification, it is not eligible for such registration; or
 - [(8) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by section 485-11(1)(D); or
 - (9)] (8) The applicant or registrant has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause and he shall vacate any such order when the deficiency has been corrected.

The commissioner may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective."

SECTION 7. Section 485-24, Hawaii Revised Statutes, is amended to read:

"§485-24 Delivery of prospectus to purchaser. No sale or contract of sale of any security required to be registered by qualification shall be concluded unless prior to the conclusion thereof a copy of a prospectus meeting the requirements of paragraph (3) or (4) of subsection (b) of section 485-10 [or of paragraph (1) of section 485-11] is delivered to the purchaser thereof."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Department of Commerce and Consumer Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (m) to read:

“[](m)[] Every licensed person under any chapter subject to section 26H-4 and every licensed person subject to chapter 485 shall pay upon issuance of a license, permit, certificate, or registration a fee of \$10 and a subsequent annual fee of \$10, which may be collected biennially or pursuant to rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period, where such renewal is required, a fee which shall be prescribed by rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Any unpaid fee shall accrue and shall be paid by the licensed person upon application for renewal of a license[.], and by the person responsible for the renewal of any filing upon the application for renewal of the filing. If the accrued fees are not paid, the director may deny renewal of the license or filing. The director may increase or decrease the [annual fee] fees when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be expended by the director's designated representative for compliance resolution as provided by this subsection. [The] Notwithstanding any law to the contrary, the moneys in the fund shall consist of annual fees collected under this subsection[.] and penalties or fines assessed as a result of action brought by the personnel hired under this subsection. The director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel. The moneys in the fund may be used to train such personnel as the director finds necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, “compliance resolution” means a determination of whether (1) any licensee under any chapter subject to section 26H-4, has complied with that chapter[.], (2) any licensee subject to chapter 485 has complied with that chapter, or (3) any person submitting any filing required by chapter 514E or section 485- 6(15) has complied with chapter 514E or section 485-6(15).

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. (This subsection is repealed effective July 1, 1987.)”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

ACT 98

H.B. NO. 1766-84

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately numbered and to read:

- “(7) “Director” means the director of the department of commerce and consumer affairs.
- “(8) “Investigator” means any person employed by the department of commerce and consumer affairs to investigate matters relating to any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder.”

SECTION 2. Chapter 444, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“§444- Citation for unlicensed activity. (a) In addition to any other remedy available, the investigator may issue citations to persons acting in the capacity of or engaging in the business of a contractor within the State, without having a license previously obtained under and in compliance with this chapter and the rules promulgated thereunder. If the investigator determines that a person is acting in the capacity of, or engaging in the business of, a contractor within this State without having a license to so act or engage, the investigator may issue a citation to such person.

(b) Each citation shall be in writing and shall describe the basis of the citation, including the specific statutory provisions alleged to have been violated, and may contain an order of abatement, and an assessment of civil penalties as provided in section 444-23. All penalties collected under this section shall be deposited in the special fund established under section 26-9.

(c) Service of a citation issued under this section shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.

(d) Any person served with a citation under this section may submit a written request to the director for a hearing, within twenty days from the receipt

of the citation, with respect to the violations alleged, the scope of the order of abatement and the amount of the civil penalties assessed.

(e) If the person cited under this section timely notifies the director of the request for a hearing, the director shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the director or the director may designate a hearings officer to hold the hearing. The director or any hearings officer designated by the director shall have the power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and issue a final order.

(f) If the person cited under this section does not submit a written request to the director for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the director.

(g) The director may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the director or designated hearings officer pursuant to this section, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the director or designated hearings officer, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, and a certified copy of the final order of the director or designated hearings officer.

(h) If any party is aggrieved by the decision of the director or the designated hearings officer, he may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which he resides or has his principal place of business or in which the action in question occurred; provided that the operation of an abatement order will not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c).

(i) The sanctions and disposition authorized under this section shall be separate from and in addition to all other remedies either civil or criminal provided in any other applicable statutory provision. The director may adopt rules under chapter 91 as may be necessary to fully effectuate this section."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Income Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) For all taxable years beginning after [December 31, 1982,] December 31, 1983, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of [December 31, 1982] December 31, 1983 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- [(3)] (4) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- [(4)] (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (e) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- [(5)] (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- [(6)] (7) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- [(7)] (8) Section (with respect to amortization of pollution control facilities). For treatment, see section 235-11.

- [(8)] (9) Section 196 (with respect to deduction for certain unused investment credits).
- [(9)] (10) Section 221 (with respect to deduction for two- earner married couples).
- [(10)] (11) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- [(11)] (12) Section 280C (with respect to portion of wages for which credit is claimed under section 40 or 44B).
- [(12)] (13) Section 291 (with respect to special rules relating to corporate preference items).
- [(13)] (14) Section 367 (with respect to foreign corporations).
- [(14)] (15) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (e) of this section. For treatment, see section 235-9.
- [(15)] (16) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- [(16)] (17) Subchapter H (sections 581 to 597) (with respect to banking institutions). For treatment, see chapter 241.
- [(17)] (18) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- [(18)] (19) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- [(19)] (20) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- [(20)] (21) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- [(21)] (22) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- [(22)] (23) Section 1055 (with respect to redeemable ground rents).
- [(23)] (24) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [(24)] (25) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- [(25)] (26) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).

[(26)] (27) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1983.

(Approved May 9, 1984.)

ACT 100

H.B. No. 1846-84

A Bill for an Act Relating to Community Property.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 510-5, Hawaii Revised Statutes, is amended to read as follows:

“§510-5 Control of community property. [The wife,] (a) Either spouse, as agent for the owners of the community property, has the same right as though it were [her] that spouse's separate property to receive, manage, control, dispose of, and otherwise deal with all community property [which stands in her name. The husband, as agent for the owners of the community property has the same right as though it were his separate property to receive, manage, control, dispose of, and otherwise deal with all other community property and all community property which stands in his name]. The rights given to [the husband and to the wife] either spouse to manage, control, dispose of, and otherwise deal with community property, as provided in this section, shall be exercised in good faith for the benefit of the owners of the community property and their legal representatives, but no person shall be held liable or accountable with respect to any conveyance, transfer, or other disposition of, or with respect to the management of, control of, or dealing with such community property, except the spouse by whom the same has been so conveyed, transferred, or otherwise disposed of, managed, controlled, or otherwise dealt with. In case of any violation by [the husband or the wife] either spouse of any duty owed to the other or their legal representatives, the person aggrieved and the legal representatives of such person are entitled to appropriate relief], and for such purpose the wife in her own name and without the interposition of a next friend, and her legal representatives, may sue or be sued by her husband and his legal representatives].

(b) Nothing in subsection (a) shall be construed to alter or modify or to otherwise affect the legal effect of any act or transaction which occurred prior to the effective date of this subsection.”

SECTION 2. Section 510-8, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Nothing in this section shall affect or modify the obligation of [the husband] both spouses to support [his wife] one another and their family and to discharge all debts contracted by the [wife] other for necessities for [herself] themselves and their family during marriage; provided[,] that if and whenever there is community property available for such purpose [the husband is] both spouses are entitled to resort to the community property rather than to [his] their respective separate property.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

A Bill for an Act Relating to Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-1, Hawaii Revised Statutes, is amended to read as follows:

“§76-1 Purpose of this chapter; statement of policy. It is the purpose of this chapter to establish in the State and each of the counties a system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment, conduct, movement, and separation of public officers and employees. It is also the purpose of this chapter to build a career service in government which will attract, select, and retain the best of our citizens on merit, free from coercive political influences, with incentives in the form of genuine opportunities for promotions in the service, which will eliminate unnecessary and inefficient employees, and which will provide technically competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality. In order to achieve these purposes it is the declared policy of the State that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, or politics. No person shall be discriminated against in any case because of any physical handicap, in examination, appointment, reinstatement, reemployment, promotion, transfer, demotion, or removal, with respect to any position the duties of which, in the opinion of the director of personnel services may be efficiently performed by a person with such a physical handicap; provided that the employment will not be hazardous to the appointee or endanger the health or safety of [his fellow employees] the appointee's co-workers or others.
- (2) Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective, and practical.
- (3) Just opportunity for competent employees to be promoted within the service.
- (4) Reasonable job security for the competent employee, including the right of appeal from personnel actions.
- (5) Systematic classification of all positions through adequate job evaluation.
- (6) Proper balance in employer-employee relations between the people as the employer and employees as the individual citizens, to achieve a well trained, productive, and happy working force.”

SECTION 2. Section 76-18, Hawaii Revised Statutes, is amended to read as follows:

"§76-18 Examinations, general character. There shall be competitive examinations for testing of the relative fitness of applicants for positions in civil service. The examinations shall be practical in their character and shall provide for ascertaining the physical and educational qualifications, experience, knowledge, and skill of applicants and their relative capacity and fitness for the proper performance of the characteristic duties of the class of positions in which they seek to be employed; except that in the case of a promotional examination, the examination shall be limited, at the request of the department head, to the characteristic duties of the class and nothing else. All examinations shall be public and, except as otherwise provided by law, free and open to all citizens of the State but with such limitations as to health, physical condition, age, sex, education, training, experience, habits, and character as the director of personnel services may deem necessary and proper for the class for which the examination is to be given. Disabled veterans or physically handicapped persons shall not be disqualified for reason of such physical handicap or disability if they possess the physical capacities to perform the duties of the class. Examinations may be oral or written or partly oral and partly written, or tests of manual skill and physical strength, or evaluations of training and experience backgrounds. Except when clearly required by the nature of the service to be performed, written examinations shall not be required of applicants for unskilled labor classes. All examinations shall be under the control of the director or such suitable person or persons as [he] the director may designate to conduct them. All persons who have passed the examination shall be required to take such physical examinations as required by the director or, in case of the counties, by the civil service commission. The reports of the physical examinations shall be filed with the director.

The director may, for purposes of expediting the examination process, require the applicants to take the written examinations prior to the filing of their formal applications. Upon the successful completion of the written examinations, the applicants shall then file their formal applications."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 501-2, Hawaii Revised Statutes, is amended to read as follows:

“§501-2 [Judge; appointment, tenure.] Judges; assignment of cases. [A judge of the circuit court of the first circuit designated so to act by the chief justice shall be judge of the land court. The judge shall act until a successor is similarly designated.] The administrative judge of the circuit court of the first circuit, subject to the direction of the chief justice as provided by section 601-2(b)(2)(B), shall assign all land court matters to such judge or judges of the circuit court of the first circuit as shall be deemed appropriate.”

SECTION 2. Section 501-5, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 501-1, Hawaii Revised Statutes, is amended to read as follows:

“§501-1 Court; jurisdiction; proceedings; location; rules, practice, etc. A court is established, called the land court, which shall have exclusive original jurisdiction of all applications for the registration of title to land and easements or rights in land held and possessed in fee simple within the State, with power to hear and determine all questions arising upon such applications, and also have jurisdiction over such other questions as may come before it under this chapter, subject to the rights of appeal under this chapter. The proceedings upon the applications shall be proceedings in rem against the land, and the decrees shall operate directly on the land and vest and establish title thereto.

The court shall hold its sittings in Honolulu, but may adjourn from time to time to such other places as the public convenience may require.

The court shall have jurisdiction throughout the State, and shall always be open, except on Saturdays, Sundays, and holidays established by law.

It is a court of record, and shall cause to be made a seal, and to be sealed therewith all orders, process, and papers made by or proceeding from the court and requiring a seal. All notices, orders, and process of the court may run into any judicial circuit and be returnable as the court may direct.

The procedure shall conform as near as may be to the practice in the circuit courts, but subject to the express provisions of this chapter and to general laws and rules of court. Forms prescribed by the court before taking effect shall be approved by the supreme court.

Upon demand for jury trial, issues shall be framed therefor by the circuit judge to whom the case has been assigned. No other issues shall be presented to the jury, and a special verdict shall be rendered.

In this chapter, except where the context requires a different construction, the word “court” or “judge” means the land court[.], the administrative

judge of the circuit court of the first circuit, civil division, or the circuit judge to whom a land court matter is assigned pursuant to section 501-2."

SECTION 4. Section 501-61, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 501-62, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 501-63, Hawaii Revised Statutes, is amended to read as follows:

"§501-63 Appeal to supreme court. Pursuant to section 641-1(a) and the Hawaii Rules of Civil Procedure, [In] in all cases an appeal to the supreme court shall lie from the final decree of the land court on behalf of any party aggrieved by the decree. [The record on appeal may include the proceedings had in the circuit court, if any, as well as those had in the land court.]"

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 103

H.B. NO. 2568-84

A Bill for an Act Relating to the High Technology Development Corporation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206M-1, Hawaii Revised Statutes, is amended by amending the definition of "qualified person" to read:

"(10) "Qualified person" means any individual, partnership, corporation, public agency, or any combination or association of the foregoing, possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible resources, required for the purposes of a project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter and which enters into a project agreement with the development corporation."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 9, 1984.)

A Bill for an Act Relating to Motor Vehicle Alarm Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 291, Part II, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§291- Motor vehicle alarm systems. (a) "Motor vehicle alarm system" means any device which is designed or used for the detection of an unauthorized entry into a motor vehicle, or for alerting others to the commission of an unlawful act, or both, and which emits a sound when activated.

(b) If a motor vehicle alarm system installed in a motor vehicle is activated and emits a sound for more than five continuous minutes, the registered owner of the motor vehicle shall be fined not more than \$100."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect January 1, 1985.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Real Property Transactions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 515-2, Hawaii Revised Statutes, is amended to read as follows:

"§515-2 Definitions. In this chapter, unless the context otherwise requires:

[(1)] "Department" means the department of commerce and consumer affairs.

[(2)] "Director" means the director of commerce and consumer affairs.

[(3)] "Discriminatory practice" means a practice designated as discriminatory under the terms of this chapter.

[(4)] "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals.

[(5)] "National origin" includes the national origin of an ancestor.

"Parental status" means that status of a person who has legal custody and control of a minor child, or minor children, and with whom the minor child, or minor children, maintains a place of abode.

[(6)] "Person" refers to the definition of section 1-19 and includes a legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, the State, or any governmental entity or agency.

[(7)] "Physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities.

[(8)] "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.

[(9)] "Real estate transaction" includes the sale, exchange, rental, or lease of real property.

[(10)] "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

SECTION 2. Section 515-3, Hawaii Revised Statutes, is amended to read as follows:

"§515-3 Discriminatory practices. It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, sex, color, religion, marital status, parental status, ancestry, or a physical handicap:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (4) To refuse to negotiate for a real estate transaction with a person;
- (5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property;
- (6) To print, circulate, post, or mail, or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in

connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto; or

- (7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith[.]; provided that it shall not be a discriminatory practice under this section to exclude a person based on parental status, or to so advertise or otherwise state, from a real estate transaction or housing accommodation developed specifically for the elderly. For the purposes of this section an elderly person is a person who is sixty-two years of age or older. Nothing in this section shall affect covenants, bylaws, or administrative provisions established in accordance with chapter 514A or established under organizational documents and proprietary leases for housing cooperatives, placing restrictions based upon parental status, existing prior to April 19, 1984.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on September 1, 1984.

(Approved May 18, 1984.)

ACT 106

S.B. NO. 1729-84

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 602-8, Hawaii Revised Statutes, is amended to read as follows:

“§602-8 Terms. [There shall be an annual term commencing on the first Monday in October and continuing until adjourned or until the following term begins. Continued existence, adjournment or expiration of the term shall in no way affect the power of the court to do all acts or things and to take any proceeding.] The supreme court shall be deemed to be in continuous session. The court shall be deemed always open for filing papers, issuing and returning process, and [making motions or] issuing orders.”

SECTION 2. Section 602-53, Hawaii Revised Statutes, is amended to read as follows:

“[] §602-53[] Terms. [There shall be an annual term commencing on the first Monday in October and continuing until adjourned or until the following term begins. Continued existence, adjournment, or expiration of the term shall in no way affect the power of the court to do all acts or things and to take any proceeding.] The intermediate appellate court shall be deemed always to be in continuous session. The court shall be deemed always open for filing papers, issuing and returning process, and [making motions or] issuing orders.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 107

S.B. NO. 1815-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this bill is to mandate that internal disputes involving owners of a condominium, the association of owners, the board of directors, and the managing agent be settled by arbitration. There is no intent to extend the mandatory procedure to matters involving the real estate commission, developers, lenders or contractors, nor to affect any of their rights, duties, obligations or interests.

SECTION 2. Chapter 514A, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“§514A- Arbitration of disputes. (a) At the request of any party, any dispute concerning or involving one or more apartment owners and an association of apartment owners, its board of directors, managing agent, or one or more other apartment owners relating to the interpretation, application or enforcement of chapter 514A or the association’s declaration, bylaws, or house rules adopted in accordance with its bylaws shall be submitted to arbitration. The arbitration shall be conducted, unless otherwise agreed by the parties, in accordance with the rules adopted by the commission and the provisions of chapter 658; provided that the Horizontal Property Regime Rules on Arbitration of Disputes of the American Arbitration Association shall be used until the commission adopts its rules; provided further that where any arbitration rule conflicts with chapter 658, chapter 658 shall prevail; provided further that notwithstanding any rule to the contrary, the arbitrator shall conduct the proceedings in a manner which affords substantial justice to all parties. The

arbitrator shall be bound by rules of substantive law and shall not be bound by rules of evidence, whether or not set out by statute, except for provisions relating to privileged communications. The arbitrator shall permit discovery as provided for in the Hawaii rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties or the arbitrator may refer any matter involving discovery to the circuit court for disposition in accordance with the Hawaii rules of civil procedure then in effect.

(b) Nothing in subsection (a) shall be interpreted to mandate the arbitration of any dispute involving:

- (1) The real estate commission;
- (2) The mortgagee of a mortgage of record;
- (3) The developer, general contractor, subcontractors, or design professionals for the project; provided that when any person exempted by this paragraph is also an apartment owner, a director, or managing agent, such person shall, in those capacities, be subject to the provisions of subsection (a);
- (4) Actions seeking equitable relief;
- (5) Actions to collect assessments which are liens or subject to foreclosure;
- (6) Personal injury claims;
- (7) Actions for amounts in excess of \$2,500 against an association of apartment owners, a board of directors, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the association of apartment owners or its board of directors would be unavailable because action by arbitration was pursued; or
- (8) Any other cases which are determined, as provided in section 514A- , to be unsuitable for disposition by arbitration.

§514A- Determination of unsuitability. At any time within twenty days of being served with a written demand for arbitration, any party so served may apply to the circuit court in the judicial circuit in which the condominium is located for a determination that the subject matter of the dispute is unsuitable for disposition by arbitration.

In determining whether the subject matter of a dispute is unsuitable for disposition by arbitration, a court may consider:

- (1) The magnitude of the potential award, or any issue of broad public concern raised by the subject matter underlying the dispute;
- (2) Problems referred to the court where court regulated discovery is necessary;

- (3) The fact that the matter in dispute is a reasonable or necessary issue to be resolved in pending litigation and involves other matters not covered by or related to chapter 514A;
- (4) The fact that the matter to be arbitrated is only part of a dispute involving other parties or issues which are not subject to arbitration under section 514A- ;
- (5) Any matters of dispute where disposition by arbitration, in the absence of complete judicial review, would not afford substantial justice to one or more of the parties.

Any such application to the circuit court shall be made and heard in a summary manner and in accordance with procedures for the making and hearing of motions. The prevailing party shall be awarded its attorneys' fees and costs in an amount not to exceed \$200.

§514A- Determination of insurance coverage. In the event of a dispute as to whether a claim shall be excluded from mandatory arbitration under section 514A- (b)(7), any party to an arbitration may file a complaint for declaratory relief against the involved insurer or insurers for a determination of whether insurance coverage is unavailable due to the pursuit of action by arbitration. The complaint shall be filed with the circuit court in the judicial circuit in which the condominium is located. The insurer or insurers shall file an answer to the complaint within twenty days of the date of service of the complaint and the issue shall be disposed of by the circuit court at a hearing to be held at the earliest available date; provided that the hearing shall not be held within twenty days from the date of service of the complaint upon the insurer or insurers.

§514A- Costs, expenses and legal fees. Notwithstanding any provision in this chapter to the contrary, the declaration or the bylaws, the award of any costs, expenses, and legal fees by the arbitrator shall be in the sole discretion of the arbitrator and the determination of costs, expenses and legal fees shall be binding upon all parties.

§514A- Award; confirming award. The award of the arbitrator shall be in writing and acknowledged or proved in like manner as a deed for the conveyance of real estate, and shall be served by the arbitrator on each of the parties to the arbitration, personally or by registered or certified mail. At any time within one year after the award is made and served, any party to the arbitration may apply to the circuit court of the judicial circuit in which the condominium is located for an order confirming the award. The court shall grant the order confirming the award, unless the award is vacated, modified, or corrected, as provided in sections 658-9 and 658-10, or a trial de novo is demanded under section 514A- , or the award is successfully appealed under section 514A- . The record shall be filed with the motion to confirm award as provided for in section 658-13, and notice of the motion shall be served upon

each other party or their respective attorneys in the manner required for service of notice of a motion.

§514A- Findings of fact and conclusions of law. Findings of fact and conclusions of law, as requested by any party prior to the arbitration hearing, shall be promptly provided to the requesting party upon payment of the reasonable cost thereof.

§514A- Trial de novo and appeal. (a) The submission of any dispute to an arbitration under section 514A- shall in no way limit or abridge the right of any party to a trial de novo.

(b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties.

(c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.

(d) In any trial de novo demanded under subsection (b), if the party demanding a trial de novo does not prevail at trial, the party demanding the trial de novo shall be charged with all reasonable costs, expenses and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses and attorneys' fees among the prevailing parties and tax such fees against those nonprevailing parties who demanded a trial de novo in accordance with the principles of equity.

(e) Any party to an arbitration under section 514A- may apply to vacate, modify or correct the arbitration award for the grounds set out in chapter 658. All reasonable costs, expenses and attorneys' fees on appeal shall be charged to the nonprevailing party."

SECTION 3. This Act shall not affect any rights or duties that matured, penalties that were incurred, or legal proceedings where a complaint was filed with a court before its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval and terminate on July 1, 1987.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 108

S.B. NO. 1841-84

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-23, Hawaii Revised Statutes, is amended to read as follows:

“§88-23 General administration of system vested in board. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this part and part VII of this chapter are vested in a board of trustees; subject, however, to the area of administrative control vested in the department of budget and finance by sections 26-8 and 26-35.”

SECTION 2. Section 88-31, Hawaii Revised Statutes, is amended to read as follows:

“§88-31 Medical board. The board of trustees shall designate a medical board to be composed of three physicians not eligible to participate in the system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under this part[,] and part VII of this chapter, shall investigate all essential statements and certificates by or on behalf of a member in connection with application for disability retirement, and shall report in writing to the board its conclusions and recommendations upon all the matters referred to it.”

SECTION 3. Section 88-41, Hawaii Revised Statutes, is amended to read as follows:

“§88-41 Limitation of other statutes. No other provision in any other statute which provides wholly or partly at the expense of the State or any county for pensions or retirement benefits for employees of the State or of any county, their surviving spouses or other dependents shall apply to members, retirants, or beneficiaries of the system established by this part[,] and part VII of this chapter, their surviving spouses or other dependents, except such benefits as may be provided under Title II of the Social Security Act.”

SECTION 4. Section 88-45, Hawaii Revised Statutes, is amended to read as follows:

“§88-45 Employee contributions. After June 30, 1965, the normal contribution by each class A and class B member to the annuity savings fund shall be six per cent of his compensation[.]; provided that after:

- (1) June 30, 1967, all firefighters [and], police officers, and investigators of the department of the prosecuting attorney shall contribute ten and four-tenths per cent of their compensation; [and provided that after]
- (2) June 30, 1977, all corrections officers shall contribute ten and four-tenths per cent of their compensation[.]; and
- (3) June 16, 1981, investigators of the department of the attorney general shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all class A and class B members including firefighters, police officers, [and] corrections officers, and investigators of the departments of the prosecuting attorney and of the attorney general shall contribute one and eight-tenths per cent of compensation to the post retirement fund.”

SECTION 5. Section 88-46, Hawaii Revised Statutes, is amended to read as follows:

“§88-46 Deducting employee contributions from salary. The head of each [State] state department and the finance director of each county shall cause to be deducted from the salary of each class A or class B member on each and every payroll under his jurisdiction for each and every payroll period, the percentage of compensation of each member as provided under section 88-45. The total amount of deductions made from the salaries of employees and a record of the amount deducted from each member’s compensation shall be transmitted to the system monthly or at such other times as may be agreed upon by the board of trustees. The amounts so deducted shall be paid into the annuity savings fund and the post retirement fund and shall be credited to the individual accounts of the member from whose compensation the deductions were made. Regular interest shall also be credited to the individual account of the member in the annuity savings fund.”

SECTION 6. Section 88-47, Hawaii Revised Statutes, is amended to read as follows:

“§88-47 Membership[; class A members and class B members]. There shall be [two] three classes of members in the system to be known as class A members [and], class B members, and class C members, defined as follows:

- (1) Class A members shall consist of members covered by section 88-74(3), and those members in service prior to July 1, 1984 including those who are on approved leave of absence, who are covered by

[the provisions of] Title II of the [Federal] Social Security Act on account of service creditable under this part. These members shall consist of:

- (A) [all] All employees who enter the membership of the system after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended; and
- (B) All employees who were members of the system on July 1, 1957, who elected to be covered by the Social Security Act.
- (2) Class B members shall consist of all [other] members in the system[.] who are not class A or class C members.
- (3) Except for members covered by section 88-74(3), class C members shall consist of all employees in positions covered by Title II of the Social Security Act who:
 - (A) First enter service after June 30, 1984;
 - (B) Reenter service after June 30, 1984 without vested benefit status as provided in section 88-96(b); or
 - (C) Make the election to become a class C member as provided in part VII of this chapter.
- (4) None of the provisions of this part shall apply to class C members except as specifically provided in part VII of this chapter."

SECTION 7. Section 88-103, Hawaii Revised Statutes, is amended to read as follows:

"§88-103 Records. (a) The board of trustees shall keep a record of all its proceedings which record shall be open to public inspection. It shall publish annually a report showing in detail: (1) the fiscal transactions of the system for the year ending the preceding June 30, (2) the amount of the accumulated cash and securities of the system, and (3) [of] an actuarial valuation of the assets and liabilities of the system. The board shall submit the report to the governor and shall furnish copies thereof to the heads of the various departments of the State and county for their use and the use of the members employed therein.

(b) The board shall include in its annual report submitted prior to January 1 of each odd-numbered year:

(1) a comparison of the investment performance of the system with the investment performances of the public employees' retirement systems of other jurisdictions which have authority to make investments substantially similar to the investment authorized under section 88-119, and (2) a comparison of the funded ratio on June 30 of the preceding year with the funded ratios of the public employees' retirement systems of other jurisdictions."

SECTION 8. Chapter 88, Hawaii Revised Statutes, is amended by adding a new Part VII to be appropriately designated and to read as follows:

**“PART VII. RETIREMENT FOR CLASS C PUBLIC
OFFICERS AND EMPLOYEES
A. APPLICABILITY OF PART II**

§88- Applicability. The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88- ;
- (2) Subpart B, except sections 88-45, 88-46, 88-48, and 88-52 to 88-62;
- (3) Subpart C, except sections 88-71 to 88-78, 88-80, 88-81, 88-83 to 88-89, 88-96, and 88-97;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E, except sections 88-134 to 88-139.

B. DEFINITIONS

§88- Definitions. (a) The following words and phrases as used in this part shall have the same meanings as defined in section 88-21, unless a different meaning is plainly required by the context: “accumulated contributions”; “actuarial equivalent”; “average final compensation”; “beneficiary”; “county”; “employee”; “medical board”; “retirant”; “retirement allowance”; “service”; and “system”.

(b) The following words and phrases as used in this part shall have the following meanings, unless a different meaning is plainly required by the context:

“Accidental death”: death which is the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or due to the result of some occupational hazard, and not caused by recklessness on the part of the member.

“Board”: the board of trustees of the employees’ retirement system established by section 88-24.

“Member”: a class C member as described in section 88-47.

“Ordinary death”: death which is not accidental and which occurs during service.

C. MEMBERSHIP, CREDITED SERVICE

§88- Election. (a) Any class A or class B member who:

- (1) Is in service on June 30, 1984, or who returns to service after June 30, 1984, and has vested benefit status as provided in section 88-96(b); and

- (2) Is in a position covered by Title II of the Social Security Act, may elect to become a class C member effective January 1, 1985, or upon return to service, by filing an election form with the board.

The election shall be made prior to December 1, 1984, or within thirty days of return to service and shall be irrevocable. A class A or class B member who makes such an election shall be refunded all accumulated and post retirement contributions and shall not be required to make further contributions upon becoming a class C member. The refund shall be made by March 31, 1985, or within ninety days after return to service. Upon the effective date of the election, all rights as a class A or class B member shall be extinguished.

(b) A class A or class B member, who returns to service but does not have vested benefit status as provided in section 88-96(b), shall become a class C member upon return to service and shall be refunded all accumulated and post retirement contributions.

(c) The board shall provide information explaining the effects of the election described in subsection (a).

§88- Credited service. Credited service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service credited under part II of this chapter as a class A or class B member for members who make the election described in section 88- (a);
- (3) Service for members who return to service in the manner described in section 88- (b);
- (4) Service rendered prior to becoming a class C member in any of the categories described in section 88-51 which is not included in any of the above; provided that such service shall be credited by purchase at any time after January 1, 1985, and after completing five years of service as a class C member, in the following manner:
 - (A) If the member had withdrawn the member's accumulated and post retirement contributions, by paying to the system in a nonrefundable lump sum an amount equal to eight per cent interest compounded annually on any accumulated and post retirement contributions previously withdrawn, for the period from the date of withdrawal to the date of purchase; or
 - (B) If the member has not made contributions to the system with respect to the previous service, by paying to the system in a nonrefundable lump sum an amount equal to eight per cent interest compounded annually multiplied by the product of seven and eight-tenths per cent of the member's current annual salary at the time of purchase, for the period from the date the employee contribution should have been made to the date of purchase;

- (5) Service in the armed forces as provided by subpart E of part II of this chapter; and
- (6) Unused sick leave as provided in section 88-63; provided that any such additional service credit shall not be used in determining eligibility for retirement or for any other purpose as a class C member.

§88- Break in service; reemployment. (a) Any class C member who terminates service prior to accumulating ten years of credited service, excluding unused sick leave, shall cease to be a member and shall forfeit all credited service subject to subsections (b) and (c).

(b) If the former class C member becomes a member again within one calendar year from the date of termination, all service credit for previous service shall be restored. If the former class C member becomes a member again more than one calendar year after the date of termination, one year of service credit for previous service shall be restored for each year of service rendered following return to membership.

(c) Any retirant who returns to service requiring membership in the system shall be re-enrolled as an active member, and the retirant's retirement allowance shall be suspended. At such time as the member again retires, the retirement allowance shall be the allowance to which the member was entitled under the mode of retirement selected when the member previously retired and which was suspended; plus, for the period of service during the member's reemployment, the allowance to which the member is entitled for that service computed for the member's age, average final compensation, and other factors in accordance with the benefit formula of a class C member in existence at the time of the member's final retirement.

D. ELIGIBILITY; BENEFITS

§88- Eligibility for retirement allowance. (a) A member who has ten years of credited service and has attained age sixty-two, or a member with thirty years credited service who has attained the age of fifty-five, shall become eligible to receive a normal retirement allowance after the member has terminated service.

(b) A member who has twenty years of credited service and has attained age fifty-five shall be eligible to receive an early retirement allowance after the member has terminated service.

(c) A member who has ten years of credited service and terminates service prior to attaining age sixty-two shall have a vested right and shall be eligible to apply for a normal retirement allowance payable beginning with the month when the member has attained age sixty-five.

(d) A member may retire upon the written application to the board specifying the desired date of retirement which shall be not less than thirty days nor more than ninety days subsequent to the date of filing. If the member dies after the date of filing the application to retire but prior to the effective date of retirement, the member's designated beneficiary may receive the member's retirement benefits which shall be computed as though the member died on the effective date of retirement under the mode of retirement selected.

§88- Amount of allowance. (a) The amount of the normal retirement allowance payable to a retired member shall be one and one-fourth per cent of the average final compensation multiplied by the number of years of credited service.

(b) The amount of the early retirement allowance payable to a retired member shall be equal to the annual normal retirement allowance reduced by one-half per cent for each month the member is less than age sixty-two at retirement.

§88- Retirement allowance options. A member may elect to have the member's normal or early retirement allowance paid under one of the following actuarially equivalent amounts:

- (1) Option A: A reduced allowance payable to the member, then upon the member's death, one-half of such allowance to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (2) Option B: A reduced allowance payable to the member, then upon the member's death, the same allowance paid to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (3) Option C: A reduced allowance payable to the member, and if the member dies within ten years, the same allowance paid to the member's beneficiary designated by the member at the time of retirement, for the balance of the ten-year period.
- (4) Any election of a mode of retirement shall be irrevocable.

§88- Ordinary disability. (a) Upon the application of a member in service or on leave without pay or of the head of the member's department, any member who has ten or more years of credited service shall be retired by the board on an ordinary disability retirement allowance if the medical board, after a medical examination of such member, certifies that:

- (1) The member is mentally or physically incapacitated for the further performance of duty at the time of application;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

(b) Retirement shall become effective upon the date specified by the member on the written application, which date shall be not earlier than thirty days after the date of filing of the application.

(c) A member who is determined to be permanently incapacitated for the further performance of duty pursuant to subsection (a) shall receive an ordinary disability retirement allowance equal to the member's accrued normal retirement allowance unreduced for age.

§88- Service connected disability. A member who would be eligible to receive a service connected disability retirement allowance pursuant to section 88-79 shall receive a retirement allowance equal to the member's accrued normal retirement allowance unreduced for age, but not less than fifteen per cent of average final compensation.

§88- Death benefit. (a) The surviving spouse and dependent child or children of a member at the time of the member's death shall be eligible for a death benefit if the member suffers either an accidental death or an ordinary death while in service after accumulating ten years of credited service.

(b) In the case of ordinary death, the death benefit shall be as follows:

- (1) For the surviving spouse, the amount of the death benefit shall be an allowance equal to one-half of the member's accrued normal retirement allowance unreduced for age, payable to the surviving spouse until remarriage.
- (2) If there is a surviving spouse, each dependent child under age eighteen shall receive as a death benefit an allowance equal to ten per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age.
- (3) If there is no surviving spouse, each dependent child under age eighteen shall receive as a death benefit an allowance equal to twenty per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed forty per cent of the member's accrued normal retirement allowance unreduced for age.

(c) In the case of accidental death, the death benefit shall be as follows:

- (1) For the surviving spouse, the amount of the death benefit shall be an allowance equal to the greater of:
 - (A) One-half of the member's accrued normal retirement allowance, unreduced for age; or

- (B) Fifteen per cent of the member's average final compensation, payable to the surviving spouse until remarriage.
- (2) If there is a surviving spouse, each dependent child under eighteen shall receive as a death benefit an allowance equal to the greater of:
 - (A) Ten per cent of the member's accrued normal retirement allowance, unreduced for age; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age; or
 - (B) Three per cent of the member's average final compensation; provided that the aggregate death benefits for all the dependent children shall not exceed six per cent of the member's average final compensation.

The death benefit shall be payable to each dependent child until each dependent child attains age eighteen.

- (3) If there is no surviving spouse, each dependent child under eighteen shall receive as a death benefit an allowance equal to the greater of:
 - (A) Twenty per cent of the member's accrued normal retirement allowance, unreduced for age; provided that the aggregate death benefits for all the dependent children shall not exceed forty per cent of the member's accrued normal retirement allowance unreduced for age; or
 - (B) Six per cent of the member's average final compensation; provided that the aggregate death benefits for all the dependent children shall not exceed twelve per cent of the member's average final compensation.

The death benefit shall be payable to each dependent child until each dependent child attains age eighteen."

SECTION 9. Statutory material to be repealed is bracketed. New material, other than in part VII, chapter 88, Hawaii Revised Statutes, is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 109

S.B. NO. 1872-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-11, Hawaii Revised Statutes, is amended as follows:

“§514A-11 Recordation and contents of declaration. The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation of a master deed or lease and the declaration may be made. Provisions shall be made for the recordation of instruments affecting the individual apartments on subsequent resales, mortgages, and other encumbrances, as is done with all other real estate recordations; provided that land court certificates of title shall not be issued for apartments. The declaration to which section 514A-20 refers shall express the following particulars:

- (1) Description of the land, whether leased or in fee simple, on which the building or buildings and improvements are or are to be located.
- (2) Description of the building or buildings, stating the number of stories and basements, the number of apartments, and the principal materials of which it or they is or are constructed or to be constructed.
- (3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common element to which it has access, designated parking stall, if considered a limited common element, and any other data necessary for its proper identification.
- (4) Description of the common elements.
- (5) Description of the limited common elements, if any, stating to which apartments their use is reserved.
- (6) The percentage of undivided interest in the common elements appertaining to each apartment and its owner for all purposes, including voting.
- (7) Statement of the purposes for which the building or buildings and each of the apartments are intended and restricted as to use.
- (8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of the person which shall be within the county or city and county in which the property is located.
- (9) Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, or restore the property in the event of damage or destruction of all or part of the property.
- (10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (11) The method by which the declaration may be amended, consistent with this chapter, provided that an amendment to the declaration

shall require a vote or written consent of not less than seventy-five per cent of all apartment owners[.], except as otherwise provided in this chapter.

- (12) Description as to any additions, deletions, modifications, and reservations as to the property[.], including without limitation provisions concerning the merger or addition of later phases of the project. To the extent provided in the declaration, an amendment to the declaration which is made to implement such additions, deletions, modifications, reservations or merger provisions shall require the vote or written consent of only the declarant or such percentage of apartment owners as is provided in the declaration.
- (13) In the case of a project which includes one or more existing structures being converted to condominium status, a statement that the project is in compliance with all ordinances, codes, rules, regulations, or other requirements in force at the time of its construction.
- (14) In the case a project which includes one or more existing structures being converted to condominium status, statement of whether any variance has been granted from any ordinance, code, rule, regulation, or other requirement in force at the time of its construction or from any current ordinance, code, rule, regulation, or other requirement.”

SECTION 2. Section 514A-12, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-12]] Copy of the floor plans to be filed. Simultaneously with the recording of the declaration, there shall be filed in the office of the recording officer a set of the floor plans and elevations of the building or buildings, showing the layout, location, apartment numbers, and dimensions of the apartments, stating the name of the property or that it has no name, and bearing the verified statement of a registered architect or professional engineer certifying that it is an accurate copy of portions of the plans of the building or buildings as filed with and approved by the county or city and county officer having jurisdiction over the issuance of permits for the construction of buildings. If the plans do not include a verified statement by the architect or engineer that the plans fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as built, there shall be recorded within thirty days from the date of completion of the building or buildings as “date of completion” is defined in section 507-43, or from the date of occupancy of the building or buildings, whichever shall first occur, an amendment to the declaration to which shall be attached a verified statement of a registered architect or professional engineer certifying that the final plans

theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment numbers, and dimensions of the apartments as built[.], which amendment shall require only the vote or written consent of the declarant or such other person or persons as are provided in the declaration. The plans shall be kept by the recording officer in a separate file for each property, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "apartment ownership," with the name of the property, if any, and each containing an appropriate reference to the recording of the declaration. Correspondingly, the record of the declaration shall contain a reference to the file number of the floor plans of the building or buildings on the property affected thereby."

SECTION 3. Section 514A-13, Hawaii Revised Statutes, is amended to read as follows:

"[[§514A-13[]] **Common elements.** (a) Each apartment shall have appurtenant thereto a common interest as expressed in the declaration.

(b) The common interest appurtenant to each apartment as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amended declaration duly recorded[.], except as provided in section 514A-11(12). An amendment which subdivides or consolidates apartments and reapportions the common interest appurtenant to the subdivided or consolidated apartment shall, to the extent provided in the declaration, require the vote or written consent of only the apartment owners of the subdivided or consolidated apartments, their mortgagees, and such other percentage of apartment owners as the declaration may provide. The common interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(c) The common elements shall remain undivided and no right shall exist to partition or divide any part thereof, except as otherwise expressed in this chapter. Any provision to the contrary is void.

(d) Each apartment owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners, subject always to the exclusive use of the limited common elements as provided in the declaration.

(e) The operation of the property shall be carried out as provided herein and in the declaration and the bylaws.

(f) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or

for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

(g) An undivided interest in the land included in the common elements equal to the apartment's common interest may be leased to the apartment owner and the apartment and other common elements may be deeded to the apartment owner with a right of removal; and, this shall not constitute a division or partition of the common elements, or a separation of the common interest from the apartment to which it appertains; nor shall any such deed be construed as conveying title to the land included in the common elements."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 110

S.B. NO. 2049-84

A Bill for an Act Relating to Motor Vehicle Safety Responsibility Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 287-8, Hawaii Revised Statutes, is amended to read as follows:

"§287-8 Further exceptions to requirement of security. The requirements as to security and suspension of sections 287-5 and 287-6 shall not apply:

- (1) To the driver or the registered owner of a motor vehicle involved in an accident where no injury or damage was caused to the person or property of any one other than the driver or registered owner;
- (2) To the driver or the registered owner of the motor vehicle legally parked at the time of accident;
- (3) To the driver of a motor vehicle owned by that person's employer involved in an accident during the normal scope of that person's employment;
- [(3)] (4) To the registered owner of the motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the motor vehicle without such permission; nor
- [(4)] (5) If prior to the date the administrator would otherwise suspend the license or permit under section 287-6, there is filed with the administrator evidence satisfactory to him that the driver who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly

acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.”

SECTION 2. Section 287-9, Hawaii Revised Statutes, is amended to read as follows:

“§287-9 Duration of suspension. The license and permit suspended as provided in section 287-6 shall remain so suspended and shall not be renewed nor shall any new license or permit be issued to any of such persons until:

- (1) The person whose license or permit is suspended deposits or there is deposited on his behalf the security required under section 287-6; or
- (2) [One year has] Two years have elapsed following the date of the suspension and evidence satisfactory to the administrator has been filed with him that during such period no action for damages arising out of the accident has been commenced; or
- (3) Evidence satisfactory to the administrator has been filed with him of a release of the driver from liability, or a final adjudication of nonliability of the driver, or a duly acknowledged written agreement, in accordance with section 287-8(4); provided, in the event there is any default in the payment of any installment under any duly acknowledged written agreement, then upon notice of the default, the administrator shall forthwith suspend the license of the person defaulting thereunder which shall not be restored unless and until (A) the person deposits and thereafter maintains security as required under section 287-6 in such amount as the administrator may then determine, or (B) [one year has] two years have elapsed following the date when such security was required and during such period no action upon the agreement has been instituted for enforcement thereof.”

SECTION 3. Section 287-20, Hawaii Revised Statutes, is amended to read as follows:

“§287-20 Proof of financial responsibility required upon conviction of certain offenses. Whenever a driver’s license has been suspended or revoked pursuant to section 286-155, or upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinafter named, under the laws of the State or ordinances of any political

subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, [and] driving while under the influence of drugs[;], and driving while that person's license has been suspended or revoked;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300 and there are reasonable grounds for the administrator to believe that the defendant is at fault[.]; and
- (3) Failure to have an effective no-fault insurance policy required by section 294-8(a).

If any person, at the time of his conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinabove named, does not hold a valid driver's license, no such license shall at any time thereafter be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 111

S.B. NO. 2056-84

A Bill for an Act Relating to Pilotage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 462A-19, Hawaii Revised Statutes, is amended to read as follows:

"[[462A-19[]] Exempt vessels. This chapter does not apply to:

- (1) Any vessel [licensed or enrolled under] required by the laws of the United States of America[, engaged in trade between ports of the United States of America;] to be under the direction and control of a federally licensed pilot;
- (2) Public vessels of the United States of America; [or]
- (3) Motorboats as defined in section 1 of the Federal Motorboat Act of 1940[.]; or
- (4) Fishing vessels that have been issued a fishery license or appropriately endorsed registry under the laws of the United States of America.

If any such exempt vessel employs a pilot, such pilot shall be entitled to receive, as compensation for [his] the person's services, pilotage fees in the amount prescribed by the rules of the board.

This section provides minimum pilotage requirements, and is not intended to negate the department of transportation's responsibility for the safety of all ports and shore waters in the State, nor does it limit the department's right to require additional pilotage should that department determine it is necessary to ensure safety in the ports or shore waters of the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 112

S.B. NO. 2085-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§514A- Remuneration to allow ingress and egress prohibited. Ingress and egress through lobby areas or walkways, whether common elements, limited common elements, or individually owned, shall not be denied to apartment owners seeking access to the apartments. No payment of any fee or other type of remuneration by individual owners, singly or collectively, as part of an owners' association, shall be allowed.

§514A- Mailboxes for each dwelling required. Any:

- (1) Condominium:
 - (A) Built;

- (B) Rehabilitated, reconstructed, or otherwise improved to the extent that the value of the work required equals at least one per cent of the appraised value of the building; or
 - (2) Existing building converted to condominium status;
- after the effective date of this Act, shall provide at least one mail box for each dwelling unit."

SECTION 2. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

"§514A-82 Contents of bylaws. The bylaws shall provide for at least the following:

(1) Board of directors:

- (A) The election of a board of directors; [the]
 - (B) The number of persons constituting the [same, and that the terms of at least one-third of the directors shall expire annually; the] board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than seventy-five per cent of all apartment owners vote by secret written ballot to set the minimum number of directors at less than nine during an annual meeting or special meeting called for the purpose of reducing the minimum number of directors;
 - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
 - (D) The powers and duties of the board; [the]
 - (E) The compensation, if any, of the directors; [the]
 - (F) The method of removal from office of directors; and [whether]
 - (G) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; [and] what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners[.] and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.

- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
- (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.

- (14) A director shall not [vote or] cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which [he] the director has a conflict of interest.
- (15) No resident manager of [the] a condominium shall serve on [the] its board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- (18) No resident manager, or managing agent shall solicit, for use by such manager or managing agent, any proxies from any apartment owner of the association of owners which employs him, nor shall he cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies, shall cast any proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors.
- [(18)] (19) All association and board of directors meetings shall be conducted in accordance with the most current edition of [Roberts] Robert's Rules of Order.
- [(19)] (20) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- [(20)] (21) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- [(21)] (22) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- [(22)] (23) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules [and regulations] adopted pursuant thereto, method of determination of violations, and manner of enforcing such penalties, if any."

SECTION 3. Section 514A-13, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-13]] Common elements. (a) Each apartment shall have appurtenant thereto a common interest as expressed in the declaration.

(b) The common interest appurtenant to each apartment as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amended declaration duly recorded. The common interest shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(c) The common elements shall remain undivided and no right shall exist to partition or divide any part thereof, except as otherwise expressed in this chapter. Any provision to the contrary is void.

(d) Each apartment owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners, subject always to the exclusive use of the limited common elements as provided in the declaration.

(e) The operation of the property shall be carried out as provided herein and in the declaration and the bylaws.

(f) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

(g) An undivided interest in the land included in the common elements equal to the apartment's common interest may be leased to the apartment owner and the apartment and other common elements may be deeded to the apartment owner with a right of removal; and, this shall not constitute a division or partition of the common elements, or a separation of the common interest from the apartment to which it appertains; nor shall any such deed be construed as conveying title to the land included in the common elements.

(h) Lobby areas, swimming pools, recreation areas, saunas, storage areas, hallways, trash chutes, laundry chutes, and other similar areas not located inside apartments intended for residential use or the conduct of a business shall constitute common elements unless designated as limited common elements by the declaration.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 113

S.B. NO. 2180-84

A Bill for an Act Relating to Coastal Zone Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205A-22, Hawaii Revised Statutes, is amended to read:

“§205A-22 Definitions. As used in this part, unless the context otherwise requires:

- (1) “Applicant” means any individual, organization, partnership, or corporation, including any utility, and agency of government.
- (2) “Authority” means the county planning commission, except in counties where the county planning commission is advisory only, in which case “authority” means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this part.
- (3) “Development” means any of the uses, activities, or operations on land; in or under water, within the special management area that are included below, but not those uses, activities, or operations excluded in paragraph (B):
 - (A) “Development” includes the following:
 - (i) The placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
 - (ii) Grading, removing, dredging, mining, or extraction of any materials;
 - (iii) Change in density or intensity of use of land, including but not limited to the division or subdivision of land;
 - (iv) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
 - (v) Construction, reconstruction, demolition, or alteration of the size of any structure.
 - (B) “Development” does not include the following:
 - (i) Construction of a single-family residence that is not part of a larger development;
 - (ii) Repair or maintenance of roads and highways within existing rights-of-way;

- (iii) Routine maintenance dredging of existing streams, channels, and drainage ways;
 - (iv) The repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;
 - (v) Zoning variances, except for height, density, parking, and shoreline setback;
 - (vi) Repair, maintenance, or interior alterations to existing structures;
 - (vii) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
 - (viii) The use of any land for the purpose of cultivating, planting, growing, and harvesting of plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes subject to review by the authority in accordance with paragraph (C);
 - (ix) The transfer of title to land;
 - (x) The creation or termination of easements, covenants, or other rights in structures or land; [and]
 - (xi) The subdivision of land into lots greater than twenty acres in size[.];
 - (xii) The subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed, provided that any such land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;
 - (xiii) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;
 - (xiv) Structural and nonstructural improvements to existing single-family residences including additional dwelling unit, where otherwise permissible; and
 - (xv) Nonstructural improvements to existing commercial structures.
- (C) Whenever the authority finds that any use, activity, or operation excluded in paragraph (B) is or may become part of a larger project, the cumulative impact of which may have a

significant environmental or ecological effect on the special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part.

- (4) "Special management area" means the land extending inland from the shoreline as delineated on the maps filed with the authority as of June 8, 1977 or as amended pursuant to section 205A-23.
- (5) "Special management area emergency permit" means an action by the authority authorizing development in cases of emergency requiring immediate action to prevent substantial physical harm to persons or property[.] or to allow the reconstruction of structures damaged by natural hazards to their original form, provided that such structures were previously found to be in compliance with requirements of the Federal Flood Insurance Program.
- (6) "Special management area minor permit" means an action by the authority authorizing development, the valuation of which is not in excess of \$65,000 and which has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.
- (7) "Special management area use permit" means an action by the authority authorizing development, the valuation of which exceeds \$65,000 or which may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects.
- (8) "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, [aquaduct] aqueduct, telephone line, and electrical power transmission and distribution line.
- (9) "Valuation" shall be determined by the authority and means the estimated cost to replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined [in paragraph 3(A)] above, the fair market value of the development."

SECTION 2. Section 205A-26, Hawaii Revised Statutes, is amended to read:

"§205A-26 Special management area guidelines. In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
 - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves

is provided to the extent consistent with sound conservation principles.

- (B) Adequate and properly located public recreation areas and wildlife preserves are reserved.
 - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources.
 - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
- (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options; and
 - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature.
 - (C) That the development is consistent with the county general plan[,], and zoning [and subdivision codes and other applicable ordinances]. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
- (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon[.];
 - (B) Any development which would reduce the size of any beach or other area usable for public recreation[.];
 - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide where there is no beach[.];

- (D) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast[.]; and
- (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 114

S.B. NO. 2249-84

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§356- Mortgage subsidy bond allocation. (a) The principal amount of bonds which may be issued under the federal Mortgage Subsidy Bond Tax Act of 1980, P.L. 96-499, as it may be amended, or by any act with a similar purpose which may be enacted, on the effective date of this Act, shall be allocated for each calendar year for so long as such Act shall be in effect in the following proportions; provided that bonds issued by counties shall be used solely for new construction projects:

State of Hawaii (Hawaii housing authority)	50%
City and County of Honolulu	29%
County of Hawaii	10%
County of Kauai	4%
County of Maui	7%

(b) The Hawaii housing authority may request additional bond allocations from one or more counties or assign all or part of the authority's bond allocation in addition to any allocations assigned to the authority under this section to one or more counties for a specified calendar year or years.

(c) Any county may by resolution of its legislative body request additional bond allocations from or assign all or part of a county's bond allocation to the Hawaii housing authority for a specified calendar year or years."¹

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act, upon its approval, shall take effect one day after the date of enactment of any federal legislation extending the December 31, 1983 repeal date of the federal Mortgage Subsidy Bond Tax Act of 1980, P.L. 96-499, or one day after the date of enactment of an act with a similar purpose, whichever is later.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 115

H.B. NO. 1629-84

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that there is a danger to the safety and welfare of the people of this State from the presence of drivers operating under the influence of alcohol, drugs, or both. The legislature further finds that intoxication control roadblock programs are a reasonable means of protecting the vital public interest in removing intoxicated drivers from the public highways. The legislature also finds that, with appropriate guidelines as to the timing, placement, duration, and operation of roadblock programs, roadblocks can be implemented with minimal intrusion into the privacy and security interests of individuals and that such slight intrusion as does occur will be justified by the overriding concerns for public safety.

The purpose of this Act is to authorize the police departments of each county to establish intoxication control roadblock programs and to provide guidelines to impose standards of reasonableness upon the exercise of discretion in the implementation of these programs.

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding two new sections to part VII to be appropriately designated and to read as follows:

“§286- Authorization to establish intoxication control roadblock programs. The police departments of the respective counties are authorized to

establish and implement intoxication control roadblock programs in accordance with the minimum standards and guidelines provided in section 286- . The chief of police in any county establishing an intoxication control roadblock program pursuant to this section shall specify the procedures to be followed in carrying out the program in rules adopted under chapter 91; provided that the procedures shall be in conformity with and not more intrusive than the standards and guidelines described in section 286- .

§286- Minimum standards for roadblock procedures. (a) Every intoxication control roadblock program shall:

- (1) Require either that all motor vehicles approaching roadblocks be stopped, or that certain motor vehicles be stopped by selecting motor vehicles in a specified numerical sequence or pattern.
- (2) Require that roadblocks be located at fixed locations for a maximum three hour period.
- (3) Provide for the following minimum safety precautions at every roadblock:
 - (A) Proper illumination;
 - (B) Off-road or otherwise safe and secure holding areas for vehicles involved in any roadblock stop;
 - (C) Uniformed police officers carrying proper identification;
 - (D) Adequate advance warning of the fact and purpose of the roadblocks, either by sign posts, flares, or other alternative methods; and
 - (E) Termination of roadblocks at the discretion of the police officer in charge where traffic congestion would otherwise result.
- (4) Provide for a sufficient quantity and visibility of uniformed officers and official vehicles to assure speedy compliance with the purpose of the roadblocks and to move traffic with a minimum of inconvenience.

(b) Nothing in this section shall prohibit the establishment of procedures to make roadblock programs less intrusive than required by the minimum standards provided in this section."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Regulation of Dealers in Farm Produce.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 145-2, Hawaii Revised Statutes, is amended to read as follows:

"§145-2 Licenses. No person shall act as a commission merchant, dealer, broker, agent, processor, or retail merchant without having obtained a license as prescribed by rules of the department.

In addition to the general requirements applicable to all classes of applications as prescribed by rule, the following requirements shall apply to each class of application noted:

- (1) Commission merchants[:] and brokers: Each application shall include a schedule of commissions and charges for services, and the designated commissions and charges shall not be changed or varied for the license period except by written contract between the parties. In addition, each application shall be accompanied by the surety bond required by section 145-4.
- (2) Agents: Each application shall include the name and address of each commission merchant, dealer, or broker represented or sought to be represented by the agent, the written indorsement or nomination of the commission merchant, dealer, or broker, and such additional information as the department may consider proper or necessary. The department shall thereupon issue to the applicant a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof, or until the same is revoked for cause; provided[,] that the license of an agent shall expire upon the date of expiration of the license of the principal for whom the agent acts. The department may also issue to each agent a card or cards which shall bear the signature of the agent, separate cards being required for each principal. Any agent shall show the card or cards upon the request of any interested person. Any agent who displays a void or expired license card shall be punished as provided in section 145-12.

Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State and each licensee shall be entitled to the possession thereof only for the duration of the license.

For filing the application for license, each applicant shall pay a fee as prescribed by the department.

Should any commission merchant, dealer, broker, agent, processor, or retail merchant refuse, fail, or neglect to apply for the renewal of a preexisting license within thirty days after the expiration thereof, a penalty of forty per cent shall apply to and be added to the original fee as prescribed by the department, and shall be paid by the applicant before the renewal license may be issued.

Any person who has applied for and obtained a license within the classification of commission merchant, in the manner and upon payment of the fee set forth, may apply for and secure a license in the other classifications without payment of further fee, and upon further complying with those provisions of this part regulating the licensing of the other particular classification involved. All licenses held by any licensee under this section shall automatically expire on the expiration date for the particular license for which the license fee was paid."

SECTION 2. Section 145-4, Hawaii Revised Statutes, is amended to read as follows:

"§145-4 Bonding of commission merchant[,] and broker. Before any license is issued to any commission merchant[,] or broker, the applicant shall execute and deliver to the department a surety bond in the amount specified in the rules of the department, but not to exceed \$10,000, executed by the applicant as principal and by a surety company qualified and authorized to do business in this State as surety. The bond shall be conditioned upon compliance with this chapter and upon the faithful and honest handling or negotiation of the purchase or sale of farm products in accordance with this chapter. The bond shall be to the State in favor of every producer-consignor of farm products grown within the State. Any producer-consignor of farm products grown within the State claiming to be injured by the fraud, deceit, or wilful negligence of any commission merchant or broker may bring action upon the bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such fraud, deceit, or wilful negligence, or the failure to comply with this chapter. In case of failure by a commission merchant to pay producer-consignor creditors for farm products received from the consignors to be sold[,] or failure by a broker to pay producer-consignor creditors for farm products delivered to and paid for by a buyer as a result of a negotiated sale by the broker on behalf of the producer, the department shall proceed forthwith to ascertain the names and addresses of all [consignor] producer-consignor creditors of the commission merchant[,] or broker, together with the amounts due and owing to them and each of them by the commission merchant[,] or broker, and shall request all the [consignor] producer-consignor creditors to file a verified statement of their respective claims with the department. The request shall be addressed to each known [consignor] producer-consignor creditor at his last known address. If a [consignor] producer-consignor creditor so addressed

fails, refuses, or neglects to file in the office of the department his verified claim as requested by the department within ninety days from the date of such request, the department shall thereupon be relieved of further duty or action hereunder on behalf of the [consignor] producer-consignor creditor.

Upon ascertaining all claims and statements in the manner herein set forth, the department may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise the claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved. Upon the refusal of the surety company to pay demand, the department shall thereupon bring an action on the bond in behalf of the [consignor] producer-consignor creditors. Upon any action being commenced on the bond, the department may require the filing of a new bond and immediately upon the recovery in any action on the bond such commission merchant or broker shall file a new bond and upon failure to file the same within ten days in either case, such failure shall constitute ground for the suspension or revocation of his license."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 117

H.B. NO. 1754-84

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-6, Hawaii Revised Statutes, is amended to read:

"§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) [Promulgate] Adopt rules [and regulations,] which [rules and regulations], upon compliance with chapter 91, shall have the force and effect of law;

- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its public documents and records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use; or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairman or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board;
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease;
- (10) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose; [and]
- (11) Appoint masters or hearing officers to conduct public hearings as provided by law and under such conditions as the board by rules shall establish[.];
- (12) Bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall be subject to a fine of not more than \$500 a day and shall be liable for administrative costs incurred by the department and for payment of damages;
- (13) Set, charge, and collect interest on delinquent leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month; provided that the contract shall state the interest rate and be signed by the party to be charged; and
- (14) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person violating any of the

provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be fined not more than \$500 a day and shall be liable for administrative costs incurred by the department and for payment of damages."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 118

H.B. NO. 1790-84

A Bill for an Act Relating to Business Names and Marks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 416-12, Hawaii Revised Statutes, is amended to read as follows:

"§416-12 Name. [No corporation shall take a name (whether of a person or not) identical with the name of any corporation or copartnership previously authorized to do business and doing business under the laws of the State or with any trade name previously registered under the laws of the State or so nearly similar thereto as to lead to confusion and uncertainty.]

The articles of association of any proposed corporation having a name [in violation of the provisions hereof] substantially identical with the name of any corporation or partnership, registered to do business under the laws of the State or any trade name, service mark, or trademark previously registered shall not be recorded by the director of commerce and consumer affairs. The acceptance of the articles of incorporation for registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark."

SECTION 2. Section 418-4, Hawaii Revised Statutes, is amended to read as follows:

"§418-4 [Declaration] Name; declaration not acceptable, when. No declaration of a corporation required to file a declaration under section 418-1 or 418-2 shall be accepted by the director of commerce and consumer affairs if the name of the corporation is [the same as the name of] substantially identical with any corporation or [copartnership, domestic or foreign, previously authorized or qualified] partnership registered to do business under the laws of the State or with any trade name, service mark, or trademark previously registered under the

laws of the State[, or so nearly similar thereto as to lead to confusion and uncertainty].

The acceptance of a declaration for registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark. The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section.

No declaration of a corporation required to file a declaration under [Section] section 418-1 shall be accepted by the director if the paid-in capital as shown on the declaration is less than [\$1,000.00.] \$1,000.”

SECTION 3. Section 425-6, Hawaii Revised Statutes, is amended to read as follows:

“§425-6 Partnership name. [No partnership shall take or use a name which is identical with any name registered in the office of the director of commerce and consumer affairs under the provisions of any statute, or which is so nearly similar to any such name as to lead to confusion or uncertainty.] No statement or certificate of any partnership [showing] having a name [in violation of the provisions hereof shall be recorded by the director.] substantially identical with the name of any corporation or partnership registered to do business under the laws of the State or with any trade name, service mark, or trademark previously registered shall be recorded by the director. The acceptance of a statement or certificate of a partnership for registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section.”

SECTION 4. Section 425-25, Hawaii Revised Statutes, is amended to read as follows:

“§425-25 Partnership name. (a) The surname of a limited partner shall not appear in the partnership name, unless (1) it is also the surname of a general partner, or (2) prior to the time when the limited partner became such, the business had been carried on under a name in which his surname appeared.

A limited partner whose name appears in a partnership name contrary to the foregoing provisions is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.

(b) No statement or certificate of any partnership having a name substantially identical with the name of any corporation or partnership registered to do business under the laws of the State or with any trade name, service mark, or trademark previously registered shall be recorded by the

director. The acceptance of a statement or certificate of a partnership for registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

(c) The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section."

SECTION 5. Section 425-72, Hawaii Revised Statutes, is amended to read as follows:

"[]§425-72[] Registration not acceptable, when. No registration for a limited partnership shall be accepted by the director if the name of such limited partnership is [the same as] substantially identical with the name of any corporation or partnership, whether general or limited, domestic or foreign, previously authorized or qualified to do business under the laws of the State, or with any trade name, service mark, or trademark previously registered under the laws of the State[, or so nearly similar thereto as to lead to confusion and uncertainty]. The acceptance of a registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section."

SECTION 6. Section 482-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person desiring to [secure the exclusive use of] register any print, label, or trademark intended to be attached or applied to [any] goods or manufactured articles or to bottles, boxes, or packages containing the goods or manufactured articles to indicate the name of the manufacturer, and any person desiring to [secure the exclusive use of] register a service mark, or a trade name, may obtain a certificate of the registration of the print, label, trademark, service mark, or the¹ trade name in the manner hereinafter provided."

SECTION 7. Section 482-3, Hawaii Revised Statutes, is amended to read as follows:

"§482-3 Record; issuance and effect of certificate. Upon receiving the application [so] accompanied [and the payment of] by the fee, the director of commerce and consumer affairs shall cause the print, label, trademark, service mark, or trade name to be recorded and shall issue to the applicant a certificate of registration under the seal of the director; and the certificate of registration shall [secure to the applicant] be constructive notice to all persons of the applicant's claim of the [exclusive] use of the print, label, or¹ trademark, service mark, or trade name throughout the State, for the term of [ten years] one year

from the date thereof; provided that the director shall not register any print, label, trademark, service mark,¹ or trade name which is substantially identical with any registered print, label, trademark, service mark or trade name or with the name of any corporation or partnership registered in accordance with chapters 416, 418, and 425; provided further that the print, label, trademark, service mark or trade name is continued in actual use by the applicant in the State or elsewhere in the United States or is registered in the name of the applicant in the patent [[]and trademark[]] office of the United States. The acceptance of an application and issuance of a certificate of registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

The registration of a print, label, trademark, service mark or trade name may be renewed at any time during a period of its registration for additional periods of ten years from the date of renewal by the filing of an application for renewal of registration in such form as the director may provide. Upon filing the application for renewal the applicant shall pay the director a fee of \$25, of which \$15 shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the State.

The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section."

SECTION 8. Section 482-4, Hawaii Revised Statutes, is amended to read as follows:

"§482-4 Certain prints, labels, trademarks, service mark, union labels and trade names not to be adopted or used. (a) It [is] shall be unlawful for any person to adopt or use a print, label, trademark, service mark, or trade name¹ which is identical to or confusingly similar with any registered print, label, trademark, service mark, or trade name, or [so similar as to be confused therewith, or any print, label, trademark, service mark,¹ or trade name identical with or similar to the name of any copartnership or corporation] the name of any partnership or corporation registered in accordance with [chapter 416 or chapter 418 or chapter 425;] the laws on partnerships or domestic or foreign corporations [and the director of commerce and consumer affairs shall not register any such print, label, trademark, service mark or trade name].

(b) When a bona fide labor union, or association of employees has adopted a device in the form [[]of[]] a label, brand, mark, name, or other character for the purpose of designating the products of the members of the union or association and the device has been registered pursuant to sections 482-2 and 482-3, then it shall be unlawful for any person to adopt, print, distribute, or otherwise use the device or one so similar as to be confused therewith[, and the director of commerce and consumer affairs shall not register any such similar device]. Any person, except the director of commerce and consumer

affairs, found to be in violation of this subsection may, in addition to any other penalty assessed or otherwise imposed by law, be required to pay all costs and attorney's fees incurred in seeking enforcement of this subsection, and may be ordered by the court to pay damages to the bona fide labor union or association of employees involved in such amount as may be determined by the court; provided that the damages ordered shall not be less [[]than[]] \$250 nor more than \$5,000."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 10. This Act shall take effect on October 1, 1984.

(Approved May 18, 1984.)

Note

1. So in original.

ACT 119

H.B. NO. 1838-84

A Bill for an Act Relating to Entering the Marriage State.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 572-1, Hawaii Revised Statutes, is amended to read as follows:

"§572-1 Requisites of valid marriage contract. In order to make valid the marriage contract, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) Each of the parties at the time of contracting the marriage is at least sixteen years of age; provided that[,] with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2;
- (3) The man does not at the time have any lawful wife living and that the woman does not at the time have any lawful husband living;
- [(4) Neither of the parties is impotent or physically incapable of entering into the marriage state;
- (5)] (4) Consent of neither party to the marriage has been obtained by force, duress, or fraud;

- [(6)] (5) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;
- [(7)] (6) It shall in no case be lawful for any person to marry in the State without a license for that purpose duly obtained from the agent appointed to grant marriage licenses; and
- [(8)] (7) The marriage ceremony be performed in the State by a person or society with a valid license to solemnize marriages and the man and the woman to be married and the person performing the marriage ceremony be all physically present at the same place and time for the marriage ceremony."

SECTION 2. Section 580-21, Hawaii Revised Statutes, is amended to read as follows:

"§580-21 Grounds for annulment. The family court may, by a decree on¹ nullity, declare void the marriage contract for any of the following causes, existing at the time of the marriage:

- (1) That the parties stood in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) That the parties, or either of them, had not attained the legal age of marriage;
- (3) That the husband had an undivorced wife living, or the wife had an undivorced husband living;
- (4) That one of the parties lacked the mental capacity to consent to the marriage;
- [(5)] That one of the parties was impotent or physically incapable of entering into the marriage state;
- (6) (5) That consent to the marriage of the party applying for annulment was obtained by force, duress, or fraud, and there has been no subsequent cohabitation;
- [(7)] (6) That one of the parties was a sufferer of or afflicted with any loathsome disease and the fact was concealed from, and unknown to, the party applying for annulment."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

Note

- 1. So in original.

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286G-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A fine of [~~\$3~~] \$5 shall be levied on a finding that a violation occurred of a statute or county ordinance relating to vehicles or their drivers or owners, except (1) offenses relating to stopping (when prohibited), standing, or parking; (2) offenses relating to registration; and (3) offenses by pedestrians.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

A Bill for an Act Relating to the Real Estate Recovery Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to simplify the procedures for the settlement of claims against the real estate recovery fund established to protect persons aggrieved by acts of licensed real estate brokers and real estate salespersons.

SECTION 2. Section 467-21, Hawaii Revised Statutes, is amended to read as follows:

“~~§467-21~~ **The real estate commission has standing in court.** When the real estate commission receives notice, as provided in section 467-18(a), the commission may enter an appearance, file an answer, appear at the court hearing, defend the action, or take whatever other action it deems appropriate on behalf and in the name of the defendant, and take recourse through any appropriate method of review on behalf of, and in the name of, the defendant. The commission or its legal representative shall be served with all pleadings in an action which may result in a recovery from the real estate recovery fund.

Settlement of any claim against the real estate recovery fund may be made only with the [unanimous] agreement of a majority of the commission[, director of commerce and consumer affairs, and attorney general] that settlement is in the best interest of the real estate recovery fund.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 122

H.B. NO. 2163-84

A Bill for an Act Relating to the Hawaii Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to Part IV to be appropriately designated and to read as follows:

"§712- Promoting intoxicating liquor to a minor. (1) A person, including any licensee as defined in section 281-1, commits the offense of promoting intoxicating liquor to a minor if he knowingly:

- (a) Sells or offers for sale, delivers, or gives to a person intoxicating liquor, and the person receiving the intoxicating liquor is a minor; or
 - (b) Permits a person to possess intoxicating liquor while on property under his control, and the person possessing the intoxicating liquor is a minor.
- (2) It is a defense to a prosecution for promoting intoxicating liquor to a minor that:
- (a) The intoxicating liquor provided to the minor was an ingredient in a medicine prescribed by a licensed physician for medical treatment of the minor; or
 - (b) The intoxicating liquor was provided to the minor as part of a ceremony of a recognized religion; or
 - (c) The defendant provided the intoxicating liquor to the minor with the belief, which was reasonable under the circumstances, that the minor had attained the age of majority; or
 - (d) The defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the minor would not consume any portion of the substance; or
 - (e) The defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with the belief, which was reasonable under the circumstances, that the

minor would consume the substance only in the presence of the parent or legal guardian.

(3) Promoting intoxicating liquor to a minor is a misdemeanor."

SECTION 2. Section 712-1240, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Intoxicating liquor" means any substance defined as "liquor" or "intoxicating liquor" by section 281-1."

SECTION 3. Section 712-1252, Hawaii Revised Statutes, is amended to read as follows:

"§712-1252 Knowledge of character, nature, or quantity of substance, or age of transferee; prima facie evidence. (1) The fact that a person engaged in the conduct specified by any section in this part is prima facie evidence that he engaged in that conduct with knowledge of the character, nature, and quantity of the dangerous drug, harmful drug, detrimental drug, [or] intoxicating compounds, or intoxicating liquor possessed, distributed, or sold.

(2) The fact that the defendant distributed or sold a dangerous drug, harmful drug, detrimental drug, [or] intoxicating compound, or intoxicating liquor, to a minor is prima facie evidence that the defendant knew the transferee to be a minor."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 123

H.B. NO. 2187-84

A Bill for an Act Relating to Liquor Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

"§281-57 Notice. Upon the filing of the inspector's report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the

commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than forty-five days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission's fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application, to not less than two-thirds of the owners and lessees of record of real estate and owners of record of shares in a cooperative apartment or to those individuals on the list of owners as provided by the managing agent or governing body of the shareholders association situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate or cooperative apartment, not less than forty-five days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice; and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the owners and lessees of record of real estate and owners of record of shares in a cooperative apartment situated within a distance of one hundred feet from the nearest point of the premises as provided [herein.] in this section. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project and cooperative apartment within the affected area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium or cooperative apartment involved. For purposes of this section, notice to one co-owner and one co-lessee shall be sufficient notice to all co-owners and all co-lessees[.], excepting that one notice shall be sent to each individual unit of a cooperative apartment as provided in this section."

SECTION 2. Section 281-58, Hawaii Revised Statutes, is amended to read as follows:

"§281-58 Protests. Protests against the granting of a license upon such application may be so filed by any registered voter for the [election precinct within] area within five hundred feet of the nearest point at which the applicant

proposes to establish or continue his business under the license applied for, or by any [person owning in fee simple any real estate or holding the same under a recorded lease,] owner or lessee of record of real estate or by any owner of record of a share in a cooperative apartment situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate or cooperative apartment."

SECTION 3. Section 281-59, Hawaii Revised Statutes, is amended to read as follows:

"§281-59 Hearing. Upon the day of hearing, or any adjournment thereof, the liquor commission shall consider the application and any protests and objections to the granting thereof, and hear the parties in interest, and shall within fifteen days thereafter give its decision granting or refusing the application; provided that if a majority of the registered voters for the [precinct] area within five hundred feet of the nearest point of the premises for which the license is asked or a majority of the [persons owning such real estate or holding the same under recorded leases] owners and lessees of record of real estate and owners of record of shares in a cooperative apartment have duly filed or caused to be filed their protests against the granting of the license upon the original application [therefor], or if there appears any other disqualification under this chapter, the application shall be refused. Otherwise the commission may in its discretion grant or refuse the same.

The commission may also, with like discretion, grant a license to one person in preference to another, without reference to any priority in the order of filing of the applications; and may of its own motion, or on the suggestion of any member [thereof], or of the inspector take notice of any matter or thing which in the opinion of a majority of its members would be a sufficient objection to the granting of a license; but in such case if the objection is one to which the applicant should be given a reasonable time to answer, a continuance may be granted in the discretion of the commission; provided[,] that in any case where any person affected by such decision petitions the commission for a rehearing of the application and on oath alleges facts and grounds for consideration which were not formerly presented or considered, or any other matter of fact which in the judgment of the commission seems sufficient to warrant a rehearing, such rehearing may be granted by the commission in its discretion. When a rehearing is allowed notice [thereof] shall be given to the applicant and to his opponents, by publication or otherwise as the commission shall direct."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 124

H.B. NO. 2203-84

A Bill for an Act Relating to Energy Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 196, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§196- Energy efficient storage hot water heaters. (a) No new storage hot water heater which is not certified as meeting the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., as set forth as the current ASHRAE 90 Standard, shall be sold or installed in the State after June 1, 1985; provided, however, that nothing contained herein shall prevent sales from being made in the State for use outside the State. Upon effective date of this Act, no retail seller or distributor shall increase their inventory of storage hot water heaters which are not certified as being in compliance with the current ASHRAE 90 Standard, and all storage hot water heaters sold after June 1, 1985 shall be certified by the manufacturer, or the retailer, or both, as being in compliance with the current ASHRAE 90 Standard.

(b) Within ninety days after the effective date of this Act, the energy resources coordinator or its successor entity shall notify, in writing, all retail sellers and distributors of storage hot water heaters doing business in this State, of the provisions of this section.

(c) Any violation of subsection (a) shall be a misdemeanor; provided a fine of not less than \$50 nor more than \$500 shall be imposed, and all fines shall be imposed consecutively. Each storage hot water heater sold in violation of this section shall constitute a separate offense.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 125

H.B. NO. 2337-84

A Bill for an Act Relating to Tail Lights on Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-31, Hawaii Revised Statutes, is amended to read as follows:

“§291-31 Tail lights on vehicles[.], motorcycles and motor scooters. (a) From thirty minutes after sunset to thirty minutes before sunrise, at any time while a vehicle, other than a bicycle, motorcycle or motor scooter, is operated on any public highway, there shall be displayed at the rear [a tail light which shall display a red light] thereof at least two tail lights, spaced as far apart as practicable, which shall display red lights visible not less than two hundred feet from the rear thereof, and so constructed and placed in those cases,]; provided that vehicles manufactured prior to 1968 originally equipped with a single tail light assembly need only display a single tail light; and where a registration number plate is required by law to be carried on the rear thereof, [that] the same shall be illuminated by a white light in such manner that the registration number thereon can be plainly distinguished at a distance of not less than fifty feet [toward] from the rear thereof; except that the council of any county may provide by ordinance that no tail lights need be displayed upon any such vehicle when stopped or parked in accordance with local parking regulations upon a highway where there is sufficient light to reveal any person or object for the specified distance upon such highways as the council may deem safe].

(b) From thirty minutes after sunset to thirty minutes before sunrise, at any time while a motorcycle or motor scooter is operated on any public highway, there shall be displayed at the rear thereof, a tail light which shall display a red light visible not less than two hundred feet from the rear thereof; and if a registration number plate is required by law to be carried on the rear of the motorcycle or motor scooter, the same shall be illuminated by a white light in such manner that the registration number thereon can be plainly distinguished at a distance of not less than fifty feet from the rear thereof.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 126

H.B. NO. 2486-84

A Bill for an Act Relating to Registration of Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to allow the counties to increase revenues for highway beautification and to cover the total cost of abandoned vehicle removal.

SECTION 2. Section 286-51, Hawaii Revised Statutes, is amended to read as follows:

“§286-51 Registration, expense. (a) Every certificate of registration issued under this part shall expire at midnight on December 31 of each year and shall be renewed annually before April 1 of each year upon application by the registered owner by presentation of the last issued certificate of registration or the last issued application for renewal, such renewal to take effect as of January 1 of each year; provided that the certificate of registration for each motor vehicle in the counties of the State may be renewed on a staggered basis, if a county elects to do so. The director of finance of each county may adopt rules to carry out the purposes stated in this section and shall expend the necessary funds from his operating funds as may be necessary for these purposes; provided [further] that the director of finance, if he has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summons or citations. The certificates of registration issued hereunder shall show, in addition to all information required under section 286-47, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. The certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until canceled by the director of finance as provided by law or replaced by new certificates of ownership as hereinafter provided.

(b) This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws; provided that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The fees charged to issue a new certificate of ownership shall be established by the county's legislative body.

Notwithstanding any other law to the contrary, an additional fee of not more than [50 cents per] \$1 for each certificate of registration may be established by ordinance and collected annually by the director of finance of each county, to be used and administered by each county for the purpose of beautification and other related activities of [primary] highways under the ownership, control, and jurisdiction of each county, and to defray the additional cost in the disposition and other related activities of abandoned vehicles as prescribed in chapter 290. The moneys so assessed and collected shall be placed in a revolving fund entitled, “the highway beautification and disposal of abandoned vehicles revolving fund[.]”.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1984.)

ACT 127

H.B. NO. 788

A Bill for an Act Relating to Notaries Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 456-3, Hawaii Revised Statutes, is amended to read as follows:

"§456-3 Seal. Every notary public shall constantly keep a seal of office, whereon shall be engraved his name, and the words, "notary public" and "State of Hawaii." He shall authenticate all of his official acts, attestations, certificates, and instruments therewith, and shall always add to his official signature a statement showing the date of expiration of his commission as notary public. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office he shall immediately deliver his seal to the attorney general who shall deface or destroy the same. [By a neglect of sixty days to comply with the above requisition,] If any notary fails to comply with this section within ninety days of the date of the resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary public or his personal representative shall forfeit to the State not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State."

SECTION 2. Section 456-16, Hawaii Revised Statutes, is amended to read as follows:

"§456-16 Disposition of records, penalty. The records of each notary public [shall each year on July 1 and upon the resignation, death, expiration of term of office, or removal from or abandonment of office,] shall be deposited with the clerk of the circuit court of the judicial circuit in which the notary public resides[.] upon the resignation, death, expiration of each term of office, or removal from or abandonment of office. [By a neglect of sixty days to comply with the above requisition,] If any notary fails to comply with this section within ninety days of the date of the resignation, expiration of any term of office, or removal from or abandonment of office or if the notary's personal representative

fails to comply with this section within ninety days of the notary's death, then the notary or his personal representative shall forfeit to the State not less than \$50 nor more than \$500, in the discretion of the court, in an action brought [therefor] by the attorney general on behalf of the State."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 19, 1984.)

ACT 128

H.B. NO. 789

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 576-35.5, Hawaii Revised Statutes, is amended to read as follows:

"§576-35.5¹ Registration procedure for foreign support orders; notice.

(a) An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this chapter.

(b) Promptly upon registration the clerk of the court shall send by [certified or registered] regular mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. The clerk shall also docket the case and notify the county attorney or corporation counsel of such action. The county attorney or corporation counsel shall proceed diligently to enforce the order."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1984.)

Note

1. Brackets missing.

ACT 129

H.B. NO. 1723-84

A Bill for an Act Relating to Bills Accompanying Vouchers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 40, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§40- Duplicate bills accompanying vouchers. Notwithstanding the requirement in sections 40-56 and 40-57 that an original warrant voucher be accompanied by all original bills, original warrant vouchers of any expending agency which fully utilizes the encumbrance segment of the comptroller's accounting system referred to in section 40-2 for obligations incurred for the purchase of materials, supplies, and incidentals, and on account of State contracts may be accompanied by duplicates of bills produced by the same impression as the original bills, or by means of photography, or by other equivalent techniques which accurately reproduce the original bills. The comptroller shall determine the acceptability of any document submitted in lieu of an original bill, and his determination shall be final."

SECTION 2. New material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved May 19, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 130

H.B. NO. 1784-84

A Bill for an Act Relating to the Motor Vehicle Repair Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§437B- Advertising. No motor vehicle repair dealer shall advertise unless it holds a valid motor vehicle repair dealer registration issued under this chapter. Advertisement includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or

marking on or in any building or structure, or newspaper or magazine, or directory under the listing of motor vehicle repair dealer, or broadcasting by airwave transmission which relates to the motor vehicle repair business.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1984.)

Note

1. No bracketed material. Edited pursuant to HRS §23G-16.5.

ACT 131

H.B. NO. 1786-84

A Bill for an Act Relating to the Board of Dental Examiners.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448-13, Hawaii Revised Statutes, is amended to read:

“§448-13 Certificate, evidence. All certificates of license issued by the board of dental examiners shall be signed by [each member thereof,] the president, sealed, [and attested by the secretary,] and shall be presumptive evidence of the right of the holder to practice dentistry. No person shall practice dentistry without first having procured such a certificate, except as provided in this chapter. Any person practicing dentistry and not having at the time a valid and uncanceled license shall be guilty of a failure to comply with this chapter and shall be punished as in this chapter provided.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1984.)

ACT 132

H.B. NO. 2012-84

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-9.2, Hawaii Revised Statutes, is amended to read as follows:

"[[§444-9.2[]] Advertising. (a) It is a misdemeanor for any person, including a person who is exempt by section 444-2 from this chapter, to advertise as a contractor unless such person holds a valid license under this chapter in the classification so advertised. "Advertise" as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building, vehicle or structure, or advertising in any newspaper or magazine, or advertising other than in-column listings in any directory under a [listing] classification of contractor, or [broadcasting] commercials broadcast by airwave transmission, with or without any limiting qualifications.

(b) A contractor may advertise in print or broadcast medium, as defined in subsection (a) only if the contractor includes in the advertisement the contractor's applicable and current license number and provides proof of the number's validity to the publisher or producer of the advertising medium. The publisher or producer of a print or broadcast advertising medium shall refuse to publish or broadcast an advertisement for a contractor who does not provide proof of current license registration and who does not include a currently valid license number in the advertisement.

(c) The publisher or producer of a print or broadcast advertising medium shall not be liable in any suit, action, or claim arising from its refusal to list or accept advertisements pursuant to subsection (b)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on November 1, 1984.

(Approved May 19, 1984.)

ACT 133

H.B. NO. 2383-84

A Bill for an Act Relating to Journals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 93, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§93- Sale and distribution. The journals of the senate and house of representatives, published in accordance with the rules of each house of the legislature, shall be sold and distributed to the public by the lieutenant governor at a price fixed by the lieutenant governor. The money received therefor shall be paid into the state treasury to the credit of the general fund. The lieutenant governor may furnish the journals of the senate and house of representatives to public officials for official use free of charge. As used in this section, public

officials include officials of the state and county governments, of the congressional delegation of the State, of the United States District Court, District of Hawaii, and of the United States Attorney's Office in Hawaii."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 134

S.B. NO. 1709-84

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and others for overpayment of taxes, or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENT CLAIMS:**

		<u>Amount</u>
Wilson, Kathleen L.		
Civil No. 5086, Second Circuit		
Date of Settlement: 7-19-83		
Amount of Settlement:	\$ 85,000.00	
No interest.		\$ 85,000.00
First Insurance Company of Hawaii, Ltd.		
Civil No. 6303, Third Circuit		
Date of Judgment: 9-2-83		
Amount of Judgment:	\$ 37,500.00	
4% interest:	\$ 1,364.75	\$ 38,864.75

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Toyofuku, Toichi, and Hatta, Sasayo

Civil No. 62833

Date of Settlement: 9-28-83

Amount of Settlement: \$ 16,000.00

No interest. \$ 16,000.00

Applebee, Thomas and Applebee, Patricia

Civil No. 62593

Date of Judgment: 8-16-83

Amount of Judgment: \$721,915.21

4% interest: \$ 27,614.24 \$749,529.45

Nance, Argie

Civil No. 7916, Third Circuit

Date of Judgment: 10-12-83

Amount of Judgment: \$ 18,092.20

4% interest: \$ 579.35 \$ 18,671.55

Hammer, Virgie

Civil No. 6809, Third Circuit

Date of Judgment: 7-14-83

Amount of Judgment: \$ 15,000.00

4% interest: \$ 627.87 \$ 15,627.87

Bello, Richard

Civil No. 6809, Third Circuit

Date of Judgment: 7-14-83

Amount of Judgment: \$ 1,000.00

4% interest: \$ 41.86 \$ 1,041.86

Sackville, Evelyn

Civil No. 6809, Third Circuit

Date of Judgment: 7-14-83

Amount of Judgment: \$ 10,000.00

4% interest: \$ 418.58 \$ 10,418.58

Estate of William Sackville

Civil No. 6809, Third Circuit

Date of Judgment: 7-14-83

Amount of Judgment: \$ 5,000.00

4% interest: \$ 209.29 \$ 5,209.29

Ethel S. Littleton vs. State of Hawaii

Civil Nos. 50265 and 51345

Amount of Judgment: \$ 70,885.93

4% interest: \$ 4,058.31 \$ 74,944.24

Shirley Matsuura vs. State of Hawaii

vs. City and County of Honolulu

Amount of Judgment: \$ 41,713.16

4% interest: \$ 2,383.56 \$ 44,096.72

Mitzvah, Inc. et al. vs. State of

Hawaii, et al.

Civil No. 63046

Herbert and Phyllis Katz, and

their attorney Enver Painter

Amount of Judgment: \$ 65,000.00

No interest. \$ 65,000.00

Bowling, Reed J. and Land, John E.

Supreme Court No. 6629

Date of Judgment: 3-7-77

John E. Land

Amount of Judgment: \$377,944.46

4% interest \$ 55,956.00 \$433,900.46

Reed J. Bowling

Amount of Judgment: \$305,954.80

4% interest: \$ 45,297.00 \$351,251.80

National Company, Inc., vs.

Ross Wigney, et al.

Civil No. 70968

Amount of Judgment: \$ 7,500.00

\$ 7,500.00

Beatrice Adarna vs. State of

Hawaii, et al.

Civil No. 56238

Amount of Judgment: \$ 15,175.71

4% interest: \$ 2,176.87 \$ 17,352.58

Raymond A. Kimoto vs. State
of Hawaii

Civil No. 4131

Amount of Judgment:	\$ 4,350.07	\$ 4,350.07
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Bryan Smith, et al. vs. State
of Hawaii

Civil No. 71035

Vita Smith

Amount of Judgment:	\$155,000.00	
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4% Interest:	\$ 3,269.40	\$158,269.40
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Bryan Smith

Amount of Judgment:	\$ 30,000.00	
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4% Interest:	\$ 632.79	\$ 30,632.79
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Eric Nettore vs. Bradford Lamb
vs. State of Hawaii, and
County of Maui

Civil No. 4628(1)

Date of Settlement: 2-7-84

Amount of Settlement:	\$ 42,500.00	
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Rosemary T. Leary, et al.
vs. State of Hawaii

Civil No. 4070(2)

Date of Settlement: 3-2-84

Amount of Settlement:	\$ 60,000.00	
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Cabotaje, Gloria J.

Civil No. 6002(2)

Second Circuit	\$975,000.00	\$975,000.00
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Silva, Cynthia R.

Interest at 4%	\$ 9,000.00	
	154.43	\$ 9,154.43

Fireman's Fund Insurance Company

Civil No. H84-1077

District Court of the

First Circuit	\$ 2,433.32	\$ 2,433.32
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Yadao, Linda and Yadao, Emil

Civil No. 5622

Third Circuit

Date of Judgment 1-30-84

Amount of Judgment	\$ 90,284.90	
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Interest at 4%	2,111.58	\$ 92,396.48
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MISCELLANEOUS CLAIMS:

Amount

Gabriel, Laverne Puunani

Reimbursement to Waimano Training
School and Hospital trainer for damage
to her car caused on November 15,
1982 when resident who was not
properly supervised broke her
windshield wiper blade and antenna.

\$ 65.44

Munei, Ernestine

Reimbursement to Waiahole Elementary
School librarian for damage to her
car caused by a State employee when
he was mowing the lawn adjacent to
parking lot.

\$ 84.00

Aloha Airlines, Inc.

Interest refund.	\$1,911,727.53
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Hawaiian Airlines, Inc.

Interest refund.	\$2,138,063.61
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Lunasco, Oliver Shane

Reimbursement to Waialua H.S. student
for theft of engine, tires, and
miscellaneous parts from van owned
by student.

\$ 6,786.70

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State upon vouchers approved by the attorney general as to all claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1985.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 135

H.B. NO. 79

A Bill for an Act Relating to State Tort Liability.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to expressly restate, reiterate, and declare the intent of the legislature in amending section 661-1 and 662-3, Hawaii Revised Statutes, in 1978 to extend jurisdiction to district courts in tort actions on claims against the State and certain other claims against the State, was originally and is now to extend jurisdiction for such actions and claims against the State to state district courts, and not to extend jurisdiction for such actions and claims to federal district courts.

This Act is a response to the court's erroneous interpretation of section 662-3, Hawaii Revised Statutes, in *In re Holoholo*, 512 F. Supp. 889 (D. Haw. 1981).

SECTION 2. Section 661-1, Hawaii Revised Statutes, is amended to read as follows:

"§661-1 Jurisdiction. The several circuit courts of the State and, except as otherwise provided by statute or rule, the several state district courts shall, subject to appeal as provided by law, have original jurisdiction to hear and determine the following matters, and, unless otherwise provided by law, shall determine all questions of fact involved without the intervention of a jury.

- (1) All claims against the State founded upon any statute of the State; or upon any regulation of an executive department; or upon any contract, expressed or implied, with the State, and all claims which may be referred to any such court by the legislature; provided[,] that no action shall be maintained, nor shall any process issue against the State, based on any contract or any act of any state officer which the officer is not authorized to make or do by laws of the State, nor upon any other cause of action than as herein set forth.
- (2) All counterclaims, whether liquidated or unliquidated, or other demands whatsoever on the part of the State against any person making claim against the State under this chapter."

SECTION 3. Section 662-3, Hawaii Revised Statutes, is amended to read as follows:

"§662-3 Jurisdiction. The circuit courts of the State and, except as otherwise provided by statute or rule, the state district courts shall have original jurisdiction of all tort actions on claims against the State, for money damages, accruing on and after July 1, 1957 for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the State while acting within the scope of his office or employment."

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 136

H.B. NO. 1697-84

A Bill for an Act Relating to the Board of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 13-4, Hawaii Revised Statutes, is amended to read as follows:

"§13-4 [[NEW]] Board members; term, vacancies. (a) The term of office of members of the board shall be for four years beginning on the day of the special election held in conjunction with the general election of the year in which they are elected and ending on the day of the special election held in conjunction with the second general election after their election[.], except as provided in subsection (c). Members of the board may be reelected without restriction as to the number of terms.

(b) Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-6.

(c) Members of the board elected at the special election held in conjunction with the general election in 1984 shall be divided into two classes. There shall be seven members in the first class who shall hold office for a term of four years beginning with their election and ending on the day of the special election held in conjunction with the second general election after their election. The remaining members shall comprise the second class and shall hold office for a term of two years beginning with their election and ending on the day of the special election held in conjunction with the next general election after their election, and then members of the second class shall be elected to four year terms.

Membership in the first class shall consist of: three members who are elected with the highest number of votes from the first school board district as designated under section 13-1, who are not required to reside in any particular departmental school district and one member elected from each odd-numbered departmental school district. Membership of the second class shall consist of the remaining elected school board members."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 137

H.B. NO. 1815-84

A Bill for an Act Relating to Dentistry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 [[NEW]] Repeal dates. (a) **[[DELETED]]**

[[b)] The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- [(3)] Chapter 448 (Board of Dental Examiners)
- (4)] (3) Chapter 453 (Board of Medical Examiners)
- [(5)] (4) Chapter 457 (Board of Nursing)
- [(6)] (5) Chapter 447 (Dental Hygienists)
- [(c)] (b) The following chapters are hereby repealed effective December

31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)
- [(d)] (c) The following chapters are hereby repealed effective December

31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)
- [(e)] (d) The following chapters are hereby repealed effective December

31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- [(f)] (e) The following chapters are hereby repealed effective December

31, 1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 448 (Board of Dental Examiners)

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[(g)] (f) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 138

H.B. NO. 1863-84

A Bill for an Act Relating to Temporary Restraining Orders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 707-726, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of custodial interference in the first degree if:

- (a) Being a relative of [the] a person[, he] less than eighteen years old:
 - (i) He knowingly takes or entices [a] that person [less than eighteen years old] from any other person who has a right to custody pursuant to a court order, judgment, or decree[.]; or
 - (ii) He knowingly violates a court order issued pursuant to chapter [585;] 586; and
- (b) He removes himself and the person less than eighteen years old from the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 139

H.B. NO. 1892-84

A Bill for an Act Relating to Crimes Against Public Administration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§710- Impersonating a peace officer. (1) A person commits the offense of impersonating a peace officer if the person pretends to be a peace officer and engages in any conduct in that capacity with the intent to deceive anyone.

(2) It is no defense to a prosecution under this section that the office or position the person pretended to hold did not in fact exist.

(3) Impersonating a peace officer is a class C felony."

SECTION 2. Section 710-1016, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of impersonating a public servant if [he] the person pretends to be a public servant other than a peace officer and engages in any conduct in that capacity with intent to deceive anyone."

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 140

H.B. NO. 1983

A Bill for an Act Relating to a Duty to Assist in Certain Circumstances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§663- Duty to assist. (a) Any person at the scene of a crime who knows that a victim of the crime is suffering from serious physical harm shall obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person. Any person who violates this subsection is guilty of a petty misdemeanor.

(b) Any person who provides reasonable assistance in compliance with subsection (a) shall not be liable in civil damages unless the person's acts constitute gross negligence or wanton acts or omissions, or unless the person receives or expects to receive remuneration. Nothing contained in this subsection shall alter existing law with respect to tort liability of a physician licensed to practice under the laws of this State committed in the ordinary course of the physician's practice.

(c) Any person who fails to provide reasonable assistance in compliance with subsection (a) shall not be liable for any civil damages."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 141

H.B. NO. 2021-84

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 300, Session Laws of Hawaii 1983, is amended to read as follows:

"SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. The legislature finds that the economy of the State has followed the recent high unemployment and recessionary trends of the national economy. Persistent high interest rates for industrial enterprise borrowers together with the prevailing symptoms of recession combine to create special and substantial obstacles to the raising of new capital and the resulting lack of introduction of new industry in the State. It is recognized that the establishment of new industry to diversify the economic base of the State, create new employment opportunities, increase tax revenues, and stimulate the inflow of new capital into the State, is desirable. The legislature therefore finds that the establishment of new industry should be one of the priority considerations in the issuance of special purpose revenue bonds.

The legislature further finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist in the establishment of new industry by using the proceeds from special purpose revenue bonds.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series for the purpose of assisting Aloha Studios, Inc., a Hawaii corporation, or a partnership in which Aloha Studios, Inc., is a general partner, in the generation of new capital for the establishment of industrial enterprise facilities relating to the performing arts, including film and sound studios, post-production facilities, machinery, equipment, furnishings and apparatus, related activities and services, and support facilities. The legislature finds and determines that the activity and facilities of Aloha Studios, Inc., constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

[Aloha Studios, Inc. shall be part of the department of budget and finance for administrative purposes only.]

[SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of or so much thereof as may be necessary for fiscal year 1983-1984, for support services to be provided to Aloha Studios, Inc., including the hiring of necessary staff. The sum appropriated shall be expended by the department of budget and finance.]

[SECTION 5.] SECTION 4. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

[SECTION 6.] SECTION 5. This Act shall take effect upon its approval."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 142

H.B. NO. 2028-84

A Bill for an Act Relating to Psychologists.

Be It Enacted by the Legislature of the State of Hawaii:

ACT 143

SECTION 1. Section 465-7, Hawaii Revised Statutes, is amended to read as follows:

"§465-7 Requirements for licensing. Every applicant for a license as a psychologist shall submit evidence satisfactory to the board that the applicant[:] meets the requirements set forth in paragraphs (1) and (2), or (3), and (4):¹"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Note

1. So in original. Language missing.

ACT 143

H.B. NO. 2103-84

A Bill for an Act Relating to Licensees Under the Intoxicating Liquor Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-44, Hawaii Revised Statutes, is amended to read as follows:

"§281-44 [Advertising] Advertisements and signs upon licensed premises. (a) All licensed premises shall post a sign in or about the premises containing and notifying all customers and other persons of the penalties of driving under the influence of intoxicating liquor under section 291-4. The sign shall be conspicuously positioned in order to be seen by an ordinarily observant person.

(b) The liquor commission may prescribe the character and extent of all other advertisements, posters, or signs which may be posted or maintained in or about the licensed premises."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 24, 1984.)

ACT 144

H.B. NO. 2169-84

A Bill for an Act Relating to Higher Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to authorize the governor of the State of Hawaii to request, pursuant to section 103(e) of the federal Internal Revenue Code of 1954, as amended, that the Hawaii Educational Loan Marketing Corporation (HELMAC) be organized and operated as a private nonprofit Hawaii corporation under the auspices of United Student Aid Funds, Inc. exclusively for the purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 in order to provide a Hawaii secondary market for investments in such loans. Pursuant to the designation of the governor on September 18, 1979, and under the authority of chapter 309, Hawaii Revised Statutes, United Student Aid Funds, Inc. operates the Hawaii Educational Loan Program which guarantees low-interest loans made under the Higher Education Act of 1965 to students and parents by private lending institutions to finance post-secondary education.

It is in the public interest that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual capacity and vocational skills through post-secondary education. It is recognized that the costs connected with post-secondary education are increasingly burdensome, and that it is essential that students and parents responsible for paying these costs have continuing access to adequate sources of low-interest loans under the guaranteed loan programs established by the federal Higher Education Act of 1965.

The legislature finds that in order for private lending institutions in the State of Hawaii both large and small to be able to continue and to increase their current levels of lending to students and parents under the Hawaii Educational Loan Program, the loan purchase program to be provided by a Hawaii-based secondary market such as HELMAC must be made available to provide liquidity for investments in such loans. HELMAC will help to ensure continuing lender participation under the Hawaii Educational Loan Program by requiring, as a condition to its purchase of loans made prior to the date on which the selling lender first originated educational loans in anticipation of the sale to HELMAC, that the selling lender use the proceeds of the sale of such loans for the making of additional educational loans under the Hawaii Educational Loan Program.

The organization and operation of HELMAC will involve no cost to the State of Hawaii, and no bonds or other obligations of HELMAC will constitute a debt, liability, or obligation of the State of Hawaii or of any agency or political subdivision thereof or a pledge of the faith and credit of the State of Hawaii or of any agency or political subdivision thereof.

SECTION 2. Chapter 309, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§309- Authorization of the governor to request the organization of a corporation affiliated with United Student Aid Funds, Inc. to acquire educational loan notes. In order to permit a corporation to issue obligations as contemplated by section 103(e) of the federal Internal Revenue Code of 1954, as amended, in an amount not to exceed \$20,000,000, the governor is hereby authorized to request the organization of a private not-for-profit corporation to be affiliated with United Student Aid Funds, Inc., which corporation shall be established and operated exclusively for the purpose of acquiring educational loan notes incurred by local financial institutions under the federal Higher Education Act of 1965; provided any such corporation:

- (1) Shall be a not-for-profit corporation organized under the laws of the State and authorized to do business within the State of Hawaii and shall be the sole not-for-profit corporation organized within the State requested to exercise the acquisition of student loan notes;
- (2) Shall be required by its articles of incorporation and bylaws to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State; and
- (3) Shall provide in its articles of incorporation and bylaws that it will issue debt only:
 - (A) Upon the approval of the legislature;
 - (B) Upon the approval of the governor and director of finance not more than sixty days prior to the sale of that debt; and
 - (C) If the proceedings authorizing or providing for such debt and the face of each obligation evidencing all or a part of such obligations provide that such obligations shall not constitute nor be deemed to constitute a general, limited, or moral obligation of the State of Hawaii, or any department, agency, or political subdivision thereof under any constitutional, statutory, or other construction; and the full faith and credit of neither the State of Hawaii nor any department, agency, or political subdivision thereof are pledged or shall be available for the payment of either the principal of or interest on such obligation. Such obligations shall provide that they are payable solely from the revenues and assets of the corporation pledged thereto."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 145

H.B. NO. 2230-84

A Bill for an Act Relating to Special Purpose Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Legislature finds that relatively low prices for oil and gas have contributed to an alarming lack of concern for the development of alternative energy resources and that development of such resources should occur before a recurrence of the energy crisis of the early 1970s. The legislature finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$12,000,000 in one or more series for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika, Inc., is a general partner, in the generation of new capital for the establishment of a 5 megawatt wind farm and related facilities. The legislature finds and determines that the activity and facilities of Kamakani Ikaika, Inc., constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 146

H.B. No. 2261-84

A Bill for an Act Relating to the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clarify the statutory qualifications for resident tuition fees at the University of Hawaii.

SECTION 2. Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

"§304-4 Powers of regents; official name. (a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university.

(b) The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus.

The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities, each of which shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The nonresident tuition differential shall not be applicable to nonresident students who were enrolled at the university during the fall or spring semester of the 1968-1969 school year, as long as the nonresident students continue to be enrolled at the university as regular students during the next and subsequent academic years, except where such continued enrollment is prevented for good cause as may be determined by the board of regents, nor to nonresident[s,] United States military personnel stationed in Hawaii on active duty and their authorized dependents during the period such personnel are stationed in the State, nor to students from any district, commonwealth, territory, or insular jurisdiction, state, or nation which does not provide public institutions of higher learning, nor to employees of the university, their spouses and dependents.

The board may waive entirely or reduce the tuition fee or any of the other fees for any students, resident or nonresident, who are well qualified or in need

of financial assistance, not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the system. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential.

(c) The board shall adopt the necessary rules and regulations defining residence for tuition purposes herein; provided that the basic rule shall be that a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, [his] the student's parents or guardians, has been a bona fide resident of this State for at least twelve consecutive months next preceding [his registration] the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the [university;] particular college or campus; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding [his registration] the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the [university] particular college or campus by [his] the student's parents or guardians who [reside outside] are nonresidents of the State.

(d) The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following Acts are repealed:

- (1) Act 150, Session Laws of Hawaii 1978;
- (2) Act 134, Session Laws of Hawaii 1980;
- (3) Act 105, Session Laws of Hawaii 1981; and
- (4) Act 128, Session Laws of Hawaii 1982.

SECTION 2. Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§297- Job-sharing. (a) A job-sharing program is established in the department subject to the requirements in this section.

(b) The superintendent of education shall announce the job-sharing program to all full-time, tenured, certificated personnel of the department excluding educational officers and shall solicit the voluntary requests of personnel interested in participating in the program.

The superintendent, in consultation with the recognized employee bargaining units, shall formulate and adopt guidelines for the implementation of this section. Employees who respond to the announcement and others who request information shall receive a full written description of the terms of the program when the guidelines are finalized, and those desiring to participate may apply to participate in the program. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the superintendent. Those who qualify then shall be interviewed by a personnel officer of the department.

Upon the selection of a permanent, full-time employee for job-sharing, the superintendent shall convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other by the hiring of a new hire or by another tenured, certificated employee of the department, excluding any educational officer.

A person hired to fill a job-sharing position shall be recruited through this section and shall possess the minimum requirements of the full-time position which was converted into a job-sharing position under this section.

(c) Job-sharing is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week and performing one-half of the work required of the respective full-time position, and with each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees. Benefits that can be divided in half, such as the number of days of sick leave, and are considered to be an equitable share when divided, shall be computed on that basis. Benefits that cannot be divided, such as eligibility for membership in the public

employees' health plan shall be given to the job-sharers without such division, notwithstanding any contrary provision of chapter 87 or 88. The newly hired job-sharer shall be excluded from collective bargaining under chapter 89.

The full-time permanent employee shall not lose membership in an employee bargaining unit because of participation in this program, any law to the contrary notwithstanding. Union membership or service fees paid by the job-sharer under this section shall be at a level consistent with normal union membership dues or service fees. The State's contribution to the job-sharers' prepaid health, prepaid dental, and group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job-sharers shall be covered under chapter 386 and the applicable provisions of chapter 383. Service credit for the tenured teacher participating in the program under this section shall be given on the same basis as that for full-time employees. Nothing in this section shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing program. The granting of tenure shall be under applicable statutes. No full-time position shall be abolished or reduced to a half-time position except for the purpose of job-sharing. In a reduction-in-force procedure, consideration of a job-sharer's tenure rights shall be on the same basis as that of a full-time employee. Nothing in this section shall impair the employment or employment rights or benefits of any employee.

(d) Tenured employees sharing full-time positions with other tenured employees shall not be required to relinquish their duty-free period. The job-sharing team shall submit to its principal a job-sharing proposal which preserves its duty-free period and meets the educational needs of its students. Where the job-sharing team cannot reach a reasonable scheduling agreement, the team may agree to waive its contractual rights by executing a contract waiver.

(e) Participation in the program shall require the commitment on the part of all parties to a contractual agreement for one year; provided that the employee shall be given the option to renew the contract for another year, subject to approval by the immediate supervisor and personnel officer of the department.

(f) No job-sharing position committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of education on the part of any person may be filled by the department either through recruitment of another person pursuant to this section, or increasing the remaining half-time job-sharing person to full-time employment by mutual agreement.

(g) Upon the termination of contractual agreements, all job-sharing positions shall be renegotiated or reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the job-sharing program under this section shall be entitled to resume their positions without loss of previous tenure or other employee rights.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. All employees currently participating in the job-sharing pilot project under Act 150, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980, Act 105, Session Laws of Hawaii 1981, and Act 128, Session Laws of Hawaii 1982, shall continue in their positions under the provisions of this Act without any loss of benefits.

SECTION 5. This Act shall take effect on July 1, 1984.

(Approved May 24, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 148

H.B. NO. 2527-84

A Bill for an Act Relating to Deposits of Public Funds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 38-3, Hawaii Revised Statutes, is amended to read as follows:

“§38-3 Securities for protection of funds deposited. For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository; or
- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues

- of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
 - (4) Bonds, notes, bills, or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
 - (5) Bonds, notes, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
 - (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository; or
 - (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of such state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
 - (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
 - (9) [Other safe bonds, notes, debentures, or other evidences of indebtedness as may be approved by the governor and the director, in an amount and value to the amount of the deposit with the depository as is determined by the director; or
 - (10) Residential mortgage loans; provided that no more than five per cent of public deposits shall be secured with residential mortgage loans and that such security shall be accepted from depositories which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; provided further that the director shall require mortgage loans representing no less

than \$200 of the unpaid principal for each \$100 of deposits.] Other assets on the books of the depository which are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; provided that not more than fifty per cent of the deposits held by a depository may be secured by assets of this class.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director may at any time require additional securities to be deposited under this section.

In the event that the depository shall fail to pay such deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no such securities shall be sold except at public auction, after giving at least ten days' notice by publication in [some] a newspaper of general circulation in the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 149

H.B. No. 2604-84

A Bill for an Act Relating to Absentee Voting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

"§15-2 Who may vote by absentee ballot. Any person registered to vote may cast an absentee ballot in the manner provided in this chapter and rules adopted by the chief election officer[.] if the person is able to affirm generally to any of the following conditions:

- (1) Absence from the island, county, or district in which the voter is registered on election day;
- (2) Confinement in any hospital;
- (3) Confinement in any public institution for the care of aged persons;

- (4) Confinement in any Hansen's disease institution or settlement;
- (5) Confinement in any penal institution for misdemeanor or as a pretrial detainee;
- (6) Confinement to the voter's home because of illness, infirmity, or physical disability;
- (7) Conflicting religious belief, ruling, doctrine, or standard.

Any other voter unable to appear at his polling place on election day for causes determined by the chief election officer by rule to be good and sufficient shall be entitled to vote as provided by this chapter and the rules adopted thereunder."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1984.)

ACT 150

S.B. NO. 934

A Bill for an Act Relating to Medical Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 622-57, Hawaii Revised Statutes, is amended to read as follows:

"[]§622-57[] Availability of medical records. If a patient of a health care provider as defined in section 671-1, requests copies of his or her medical records, the copies shall[, if available,] be made available to the patient unless in the opinion of the health care provider it would be detrimental to the health of the patient to obtain the records. If the health care provider is of the opinion that release of the records to the patient would be detrimental to the health of the patient, the health care provider [must] shall advise the patient that copies of the records will be made available to the patient's attorney upon presentation of a proper authorization signed by the patient.

If an attorney for a patient asks a health care provider for copies of the patient's medical records and presents a proper authorization from the patient for the release of the information, complete and accurate copies of the records shall be given to the attorney within a reasonable time not to exceed ten working days.

Reasonable costs incurred by a health care provider in making copies of medical records shall be borne by the requesting person."

SECTION 2. Part V, chapter 622, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§622- Retention of medical records. Medical records may be computerized or minified by the use of microfilm or any other similar photographic process; provided that the method used creates a permanent, unaltered record.

The health care provider shall retain medical records in the original or reproduced form for a minimum of seven years after the last data entry except in the case of minors whose records shall be retained during the period of minority plus seven years after the minor reaches the age of majority.

Medical records may be destroyed after the seven-year retention period or after minification, in a manner that will preserve the confidentiality of the information in the record; provided that the health care provider retains basic information from each record destroyed.

Basic information from the records of a physician or surgeon shall include, but not be limited to, the patient's name and birthdate, a list of dated diagnoses and intrusive treatments, and a record of all drugs prescribed or given.

Basic information from the records of a health care facility, as defined in section 323D-41(4), shall include, but not be limited to, the patient's name and birthdate, dates of admissions and discharges, names of responsible physicians, records of all diagnoses, operations, and special study results, operative reports, pathology reports, and discharge summaries.

If the health care provider is succeeded by another entity, the burden of compliance with this section shall rest with the successor. The department of health shall adopt rules pursuant to chapter 91 governing the disposal of medical records when a health care provider ceases activity without a successor; provided that the rules shall be in keeping with the intent of this section.

For the purposes of this section, the term "health care provider" is defined in section 671-1."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 151

S.B. NO. 2184-84

A Bill for an Act Relating to Geothermal Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the rights of lessees holding geothermal mining leases issued by the state or geothermal developers holding

exploratory and/or development permits from either the state or county government need to be clarified. The legislature finds that the respective roles of the state and county governments in connection with the control of geothermal development within geothermal resource subzones need to be clarified also. The purpose of this Act is to provide such further clarification.

SECTION 2. Section 205-5.1, Hawaii Revised Statutes, is amended to read as follows:

"[]§205-5.1[] **Geothermal resource subzones.** (a) Geothermal resource subzones may be designated within [each of] the urban, rural, agricultural and conservation land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for [the exploration, development, production, and distribution of electrical energy from geothermal sources,] geothermal development activities in addition to those uses permitted in each land use district under this chapter. Geothermal development activities may be permitted within urban, rural, agricultural, and conservation land use districts in accordance with this chapter. "Geothermal development activities" means the exploration, development or production of electrical energy from geothermal resources.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-5.2[.]; except that the total area within an agricultural district which is the subject of a geothermal mining lease approved by the board of land and natural resources, any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before the effective date of this Act is hereby designated as a geothermal resource subzone for the duration of the lease. The designation of geothermal resource subzones shall be governed exclusively by this section and section 205-5.2, except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein. The provisions of this section shall not abrogate nor supersede the provisions of chapters 182 and 183.

(c) The use of an area for [the exploration,] geothermal development[, production and/or distribution of electrical energy from geothermal sources] activities within a geothermal resource subzone shall be governed by the board within the conservation district and, except as herein provided, by [existing] state and county statutes, ordinances, and rules not inconsistent herewith within [the] agricultural, rural, and urban districts, except that no land use commission

approval or special use permit procedures under section 205-6 shall be required for the use of such subzones. [The board and/or appropriate county agency shall, upon request, conduct a contested case hearing pursuant to chapter 91 prior to the issuance of a geothermal resource permit relating to the exploration, development, production, and distribution of electrical energy from geothermal resources. The standard for determining the weight of the evidence in a contested case proceeding shall be by a preponderance of evidence.] In the absence of provisions in the county general plan and zoning ordinances specifically relating to the use and location of geothermal development activities in an agricultural, rural, or urban district, the appropriate county authority may issue a geothermal resource permit to allow geothermal development activities. "Appropriate county authority" means the county planning commission unless some other agency or body is designated by ordinance of the county council. Such uses as are permitted by county general plan and zoning ordinances, by the appropriate county authority, shall be deemed to be reasonable and to promote the effectiveness and objectives of this chapter. Chapters 177, 178, 182, 183, 205A, 226, 342, and 343 shall apply as appropriate. If provisions in the county general plan and zoning ordinances specifically relate to the use and location of geothermal development activities in an agricultural, rural, or urban district, the provisions shall require the appropriate county authority to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, on any application for a geothermal resource permit to determine whether the use is in conformity with the criteria specified in section 205-5.1(e) for granting geothermal resource permits.

(d) If geothermal development activities are proposed within a conservation district, then, after receipt of a properly filed and completed application, the board of land and natural resources shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether, pursuant to board regulations, a conservation district use permit shall be granted to authorize the geothermal development activities described in the application.

(e) If geothermal development activities are proposed within agricultural, rural, or urban districts and such proposed activities are not permitted uses pursuant to county general plan and zoning ordinances, then after receipt of a properly filed and completed application, the appropriate county authority shall conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91 to determine whether a geothermal resource permit shall be granted to authorize the geothermal development activities described in the application. The appropriate county authority shall grant a geothermal resource permit if it finds that applicant has demonstrated by a preponderance of the evidence that:

- (1) The desired uses would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property; and
- (2) The desired uses would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection; and
- (3) That there are reasonable measures available to mitigate the unreasonable adverse effects or burdens referred to above.

Unless there is a mutual agreement to extend, a decision shall be made on the application by the appropriate county authority within six months of the date a complete application was filed; provided that if a contested case hearing is held, the final permit decision shall be made within nine months of the date a complete application was filed."

SECTION 3. Notwithstanding the provisions of section 205-5.2, Hawaii Revised Statutes, regarding county-by-county assessment of areas with geothermal potential, the board of land and natural resources shall separately conduct an assessment of the area described on maps attached to the board of land and natural resources decision and order, dated February 25, 1983, which was the subject of a conservation district use permit. The assessment shall be in accordance with all provisions of Act 296, Session Laws of Hawaii 1983, regarding the procedures and standards for designation of an area as a geothermal resource subzone. The board of land and natural resources shall make its determination regarding the designation of all or any portion of the abovementioned area, as a geothermal resource subzone, on or before December 31, 1984.

SECTION 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 152

H.B. NO. 162

A Bill for an Act Relating to Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 26, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“§26- Members of boards and commissions; immunity from or indemnification for civil liability; defense of members. (a) For purposes of this section, “member” means any person who is appointed, as provided by law, to serve on a temporary or permanent state board, council, authority, committee, or commission, established by law, without compensation other than reimbursement for expenses necessary for the performance of the duties of the position to which the person was appointed; provided that “member” shall not include any person serving on a board or commission with land trust obligations.

(b) Notwithstanding any law to the contrary, no member shall be liable in any civil action founded upon a statute or the case law of this State, for damage, injury, or loss caused by or resulting from the member’s performing or failing to perform any duty which is required or authorized to be performed by a person holding the position to which the member was appointed, unless the member acted with a malicious or improper purpose, except when the plaintiff in a civil action is the State.

(c) Except as provided in subsections (d) and (f), the State shall indemnify a member from liability by paying any judgment in, or settlement or compromise of, any civil action arising under federal law, the law of another state, or the law of a foreign jurisdiction, including fees and costs incurred, unless the loss, injury, or damage for which the judgment or settlement amount is required to be paid:

- (1) Is fully covered by a policy of insurance for civil liability purchased by the State;
- (2) Is caused by or is the result of the member’s performing an act authorized or required to be performed by a person holding the position to which the member was appointed so as to effect a malicious or improper purpose;
- (3) Is caused by or is the result of the member’s failure to perform an act required or authorized to be performed by a person holding the position to which the member was appointed so as to effect a malicious or improper purpose.

(d) The State shall not indemnify a member who would otherwise be entitled to indemnification under subsection (c), if the member fails to cooperate fully in the defense of the civil action which is made available to the member under subsection (e). The State shall not indemnify a member for any portion of a judgment that represents punitive or exemplary damages. The State shall not indemnify a member for any portion of a settlement which is deemed unreasonable by the legislature.

(e) The attorney general shall represent and defend a member in any civil action for which immunity is conferred under subsection (b), or when the

attorney general determines that indemnification is available to the member under subsection (c), and the member against whom the action is brought has submitted a written request for representation and has provided the attorney general with all process or complaint served upon the member within a reasonable period of time, but no more than five days after being served with the process or complaint. The attorney general may terminate the representation and defense of the member at any time if, after representation and defense is accepted, the attorney general determines that indemnification would not be available to the member under subsection (c).

(f) A member may retain counsel of the member's own choice at the member's own expense. If the member chooses to retain counsel at the member's own expense, the State shall not indemnify the member even though the member would have been entitled to indemnification under subsection (c). The attorney general may enter an appearance in any action in which the member is represented by counsel of the member's own choice, even though no request for the appearance has been made by the member.

(g) Nothing in this section precludes a member from compromising or settling any claim against the member at the member's own expense. If such a settlement or compromise is effected, however, the member shall be deemed to have waived any claims which the member might have made under this section unless the provisions of subsection (i) apply.

(h) If the attorney general denies representation to the member under subsection (e) and the member proceeds to judgment in the action for which representation was denied, the member may commence an action against the State in the circuit court to recover reasonable costs and fees incurred by the member in defending against that action, including attorney's fees, court costs, investigative costs, and expert witness fees. The State shall pay the judgment or reimburse the member if the member has satisfied the judgment in an action for which representation was denied; provided the member was found not liable in that action or the member establishes by a preponderance of the evidence that the member is entitled to indemnification under subsection (c). A finding of negligence against the member in the civil action for which representation was denied shall not be binding upon the circuit court in any action brought under this subsection. The member shall commence any action under this subsection no later than two years after entry of judgment in the action for which the member was denied representation if no appeal is filed, or two years after the conclusion of the final appeal from that judgment if an appeal is filed.

(i) If the attorney general denies representation to the member under subsection (e) and the member negotiates a compromise or settlement without an entry of judgment in the action for which representation was denied, the member may seek to introduce a bill in the legislature to secure an appropriation to reimburse the member for the amount of the settlement or that portion which

constitutes a reasonable settlement, and for reasonable costs and fees incurred by the member in defending against that action, including attorney's fees, court costs, investigative costs, and expert witness fees.

(j) Any moneys which the State is required to pay to a member under this section shall be paid from an appropriation made by the legislature at the next session after the requirement to pay inures to the member. The appropriation shall be sufficient to include any postjudgment interest which the member was required to pay if the member has personally satisfied the judgment, or at the rate specified in section 478-2 for the period from the entry of judgment for which indemnification is available until the appropriation is enacted if the judgment was not satisfied. Any bill necessary to effect a payment required by subsections (h) and (i) shall be submitted by the member to a legislator; all other bills necessary to effect payments required by this section shall be initiated by the attorney general.

(k) This section shall not be construed as eliminating, waiving, reducing, or limiting any defense, immunity, or jurisdictional bar conferred upon or available to a member or the State by any other statute or by case law."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval. The provisions of the Act shall not apply to any civil action founded upon the statute or case law of this State which is pending on or before the effective date of this Act. The provision of the Act shall apply to any action arising under federal law, the law of another state, or the law of a foreign jurisdiction, provided the member, as the term is defined in Section 1 of this Act, is represented by the attorney general in that action on the effective date of this Act.

(Approved May 25, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 153

H.B. NO. 1297

A Bill for an Act Relating to Special Purpose Revenue Bonds for Health Care Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in the sum of \$43,320,000, or such portions thereof as may be necessary, to assist not-for-profit corporations that provide health care facilities to the general public and to be used for financing or refinancing as follows:

St. Francis Hospital

For construction of new hospital facility in

Waipahu-Ewa

\$43,320,000

The department of budget and finance shall not issue special purpose revenue bonds authorized in this section until such time that St. Francis Hospital has obtained a certificate of need approval from the state health planning and development agency and is otherwise in compliance with laws, ordinances, and rules and regulations of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, compliance with health care planning laws or regulations, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project.

SECTION 3. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in Section 2. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this Section.

SECTION 4. The special purpose revenue bonds and refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 154

H.B. NO. 1755-84

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-7, Hawaii Revised Statutes, is amended to read:

“§171-7 **General duties of the board.** Except as provided by law the board of land and natural resources through the chairman shall:

- (1) Maintain an accurate inventory of public lands;
- (2) Prevent illegal activities on, unlawful occupation of, or trespassing on public lands;
- (3) Cause all trespassers and persons unlawfully occupying public lands, and their effects, and all animals trespassing on the lands to be removed therefrom and to impound the animals according to law;
- (4) Enter on any public land in order to take possession thereof, and to resume possession of any public land in case of surrender, forfeiture, or escheat;
- (5) Enforce contracts respecting sales, leases, licenses, permits, or other disposition of public lands;
- (6) Conduct all public auctions and sales pertaining to the disposition of public lands and other property authorized by the board;
- (7) Recover money due the State for damage done to any public lands by wrongful entry and occupation or by wrongful removal therefrom or destruction of any property;
- (8) Bring such actions and proceedings as may be necessary to carry out the powers and duties of the board in the name of the State and to defend such actions brought against the State as may be authorized;
- (9) Keep a record of all official transactions, relating to public lands within his jurisdiction and such record shall be a public record;
- (10) Administer oaths in all matters pertaining to the administration of the public lands.”

SECTION 2. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 155

H.B. NO. 1760-84

A Bill for an Act Authorizing the Issuance of Improvement District Bonds for Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Bonds may be issued by the Hawaii community development authority pursuant to section 206E-6, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$30,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the district-wide improvement programs in said section.

SECTION 2. This Act shall take effect on July 1, 1984.

(Approved May 25, 1984.)

ACT 156

H.B. NO. 1777-84

A Bill for an Act Relating to Chapter 26H, Hawaii Regulatory Licensing Reform Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)
- (8) Chapter 462A (Board of Pilot Commissioners)”

SECTION 2. Section 26H-6, Hawaii Revised Statutes, is amended to read as follows:

“§26H-6 New regulatory measures. New regulatory measures being considered for enactment which if enacted would subject unregulated professions and vocations to licensing or other regulatory controls shall be referred to the [director] legislative auditor for analysis. The analysis required by this section shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in section 26H-2. The analysis shall also assess alternative forms of regulation. The [director] legislative auditor shall submit each report of analysis to the legislature.”

ACT 157

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 157

H.B. NO. 1799-84

A Bill for an Act Relating to Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 516-51, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) This preliminary negotiation shall be in advance of and shall not constitute any part of any action in condemnation or eminent domain.

Any offers, appraisals, other documents, or any other expert opinions giving a value of the lessor's interest in the development tract which were prepared by a party for use in preliminary negotiations as provided for in this section [or], for setting qualification amounts pursuant to section 516-33(4), or for negotiations to determine the just compensation after designation to acquire the lessor's interest in the development tract, and were not prepared for use in the trial shall not be discoverable, usable, or admissible by an opposing or adverse party in any action, suit, or proceeding brought under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 158

H.B. No. 1845-84

A Bill for an Act Relating to Separation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-75, Hawaii Revised Statutes, is amended to read as follows:

“§580-75 Status of [wife] spouse during separation. [Whenever a decree of separation is granted, the decree shall have the effect, during the separation, to reinstate the wife, whether the wrongdoer or not, in the right to sue or be sued, to alienate and convey property, to make contracts, and to do all other acts

as if she were¹ a feme sole.] Every decree of separation shall have the effect of allowing each of the spouses to sue or be sued, to alienate and convey property, to make contracts, and to do all other acts as if the spouse were an unmarried person."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

Note

1. The word "were" added by revisor.

ACT 159

H.B. NO. 1848-84

A Bill for an Act Relating to Separate Property.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 573-1, Hawaii Revised Statutes, is amended to read as follows:

"§573-1 **Separate property.** The real and personal property of a [woman] spouse [shall], upon [her] marriage, shall remain [her] that spouse's separate property, free from the management, control, debts, and obligations of [her husband;] the other spouse; and a [married woman] spouse may receive, receipt for, hold, manage, and dispose of property, real and personal, in the same manner as if [she] that spouse were sole."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 160

H.B. NO. 1905-84

A Bill for an Act Making an Appropriation for Sugar Research and Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic

base. This industry occupies approximately 205,000 acres of land and employs more than 8,000 employees with an annual payroll of over \$140 million a year. The legislature further finds that the adverse effects of losing this industry would be catastrophic to the State. The legislature also finds that the sugar industry continues to experience adverse economic conditions, and it is in the public interest to continue the measures enacted in prior years to assist and save the sugar industry.

The purpose of this Act is to provide funds for research performed by the industry and thereby offset the costs to the industry.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 1984-1985, for sugar research and development; provided that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds for the purpose for which this sum is appropriated.

SECTION 3. The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1984.

(Approved May 25, 1984.)

ACT 161

H.B. NO. 1912-84

A Bill for an Act Relating to Health Clubs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Title 26, Hawaii Revised Statutes, is amended by the addition of a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
HEALTH CLUBS**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Business day" means any calendar day on which the health club is open for inspection and use by the buyer, except Saturdays, Sundays, and state or federal holidays.

"Buyer" means a natural person who enters into a health club contract.

"Health club" means any person operating a business organized for profit, offering facilities or services for the maintenance or development of

physical fitness or well being through physical exercise. Each location at which the facilities or services are offered shall be deemed a separate health club.

“Health club contract” means a contract for membership in a health club, or for services offered by a health club, or for use of facilities of a health club, for a period longer than seven days.

“Social and recreational facilities” means those portions of the facilities of a health club devoted primarily to dining and entertaining.

§ -2 **Exemptions.** This chapter shall not apply to:

- (1) Any nonprofit organization;
- (2) Any person operating a business primarily for the purpose of teaching a form of self-defense or dance as an art;
- (3) Any private club owned and operated by its members;
- (4) Any medically related service performed by a doctor legally authorized to practice medicine or osteopathy in the State, in a private office, clinic, or hospital; or
- (5) The State or any of its political subdivisions;
- (6) Any health club which began offering health club contracts or any other contracts in the state prior to December 31, 1969;
- (7) Any club whose function as a health club is only incidental to its overall function and purpose, and whose covered floor space devoted to the maintenance or development of physical fitness or well being through physical exercise comprises less than thirty-five per cent of the total covered floor space of the club available to members.

§ -3 **Written contract required.** Every health club contract shall be in writing.

§ -4 **Copy of contract to buyer.** A copy of the health club contract shall be issued to the buyer at the time the buyer signs the contract.

§ -5 **Contents of contracts.** In addition to all other requirements of this chapter, every health club contract shall include the following:

- (1) The name and address of the health club;
- (2) The name and address of the buyer; and
- (3) A list of the names and addresses of other clubs, if the contract is transferable for use at other facilities.

§ -6 **Right of cancellation.** (a) Every health club contract may be canceled by the buyer within five business days after the date on which the buyer signs the contract, by mailing or delivering written notice to the health club at an address which is specified in the contract.

(b) Every health club contract shall contain a statement notifying the buyer of the right of cancellation. This statement shall be in a bold face type of a minimum size of ten points, in close proximity to the space reserved for the signature of the buyer, and shall be in substantially the following form:

"You, the buyer, may cancel this contract by mailing or delivering a written notice to this health club. The notice must say that you are canceling this contract and must be postmarked or delivered by midnight of the fifth business day of this health club after signing this contract, excluding Saturdays, Sundays, and state or federal holidays. The notice must be delivered or mailed to:

_____,
(Name and mailing address of health club)

(c) Mailing a written notice of cancellation by registered or certified mail within five business days after the date on which the buyer signs the contract shall be conclusive evidence that the notice was timely mailed to the health club.

Mailing a written notice of cancellation by regular mail and retaining a duplicate of the signed and dated notice of cancellation shall be prima facie evidence that the notice was mailed to the health club on the date as noted on the notice of cancellation.

(d) Within thirty days of receipt of the notice of cancellation, the health club shall refund to the buyer the entire consideration the buyer paid for the contract, less the fair market value of the services and facilities actually used by the buyer.

(e) The health clubs may condition the refund required by subsection (c) upon the return of membership cards and other similar evidence of membership from the buyer, at the request of the health clubs.

§ -7 Cancellation for death or disability. (a) Every health club contract may be canceled, if by reason of death or disability the buyer is unable to receive all services as contracted. If the inability to receive all services as contracted is due to disability, the buyer shall have the option of extending the duration of the original contract at no cost for a period equal to the duration of the disability.

(b) Every health club contract shall fully disclose the buyer's right of cancellation in the event of death or disability, and the option to extend the duration of the health club contract in the event of disability.

(c) The health club shall have the right to require and verify reasonable evidence of disability or death.

(d) In the event of cancellation due to death or disability, the health club shall immediately refund to the buyer or the buyer's estate, the entire consideration the buyer paid for the health club contract, less an amount computed by dividing the total contract price by the number of weeks in the term of the contract and multiplying the result by the number of weeks elapsed at the time of death or disability.

(e) "Disability," as used in this section, means a condition which has existed for more than thirty days which precludes the buyer from using the

facilities or services of the health club, and the condition is verified by a doctor legally authorized to practice medicine or osteopathy in the State.

§ -8 Duration of contracts. (a) Every health club contract shall specify the duration of the contract. Health club contracts shall not have a duration longer than thirty-six months and shall not be measured by the life of the buyer or the life of the health club.

(b) A buyer may be given an option to renew the contract; provided that the buyer pays a reasonable consideration of not less than ten per cent of the cash price of the original contract.

§ -9 List of equipment and services required. Every health club shall provide to each buyer prior to the time the buyer signs the contract, a written list of equipment or services which are or will be available for use by the buyer at the health club, including any conditions or restrictions on the availability of the equipment or services.

§ -10 Pre-operative requirements. (a) No health club shall be considered fully operative until substantially all of the equipment and services listed in accordance with section -9 are actually available for use by buyers.

(b) Every health club contract shall provide that the health club will be fully operative on a specified date no later than one year after the contract is signed by the buyer.

(c) If the health club is not fully operative at the time that the buyer signs the health club contract, the buyer shall have until midnight of the fifth business day after the day on which the buyer receives notice by mail that the health club is fully operative to cancel the contract in accordance with section -6.

(d) All moneys received by a health club pursuant to a health club contract prior to the health club being fully operative shall be placed in an escrow account separate and apart from any account maintained by or for the health club's personal use or for use in the construction or operation of the health club or for the payment or benefit of employees of the health club.

The escrow account shall:

- (1) Be established in a bank, savings and loan association, or a trust company authorized to do business in the State under an escrow arrangement or corporation licensed as an escrow depository under chapter 449.
- (2) Provide that the purpose of the account is to protect the buyer in the event that the health club fails to be fully operative within one year following the advancement of any money by the buyer. Any buyer who has advanced moneys on deposit in the escrow account may maintain an action to recover all moneys advanced or may maintain a representative action to close the account and to release such moneys pro rata to all buyers similarly situated if such health

club facility is not fully operative within one year of the advancement of any money by the buyer.

- (3) Be closed and released by the escrow agent to the health club only upon the health club becoming fully operative.

Within fifteen business days of a request in the State, or thirty days for out-of-State requests, a statement of the escrow account shall be furnished to buyers who have advanced funds or obligations.

(e) In lieu of the escrow provisions required by this section, the health club may maintain a fidelity bond issued by a surety company authorized to do business in this State, the principal sum of which shall be at all times at least as great as the greater of the total amount of prepayment received for all health club contracts entered into prior to the health club being fully operative, or \$50,000.

The bond required by this section shall be in favor of the State for the benefit of any buyer who is damaged by the health club's violation of law, or the health club's failure to comply with its contractual obligations to its buyers. Any buyer claiming against the bond may maintain an action at law against the health club and the surety; provided that the aggregate liability of the surety to all buyers for breaches of the conditions of the bond shall in no event exceed the amount of the bond.

The bond shall be in effect from the date that the health club commences the sale of health club contracts and shall be continuously maintained until two years from the date that the health club is fully operative.

§ -11 Violation; remedies. (a) A violation or failure to comply with any of the requirements of this chapter shall constitute an unfair or deceptive act within the meaning of section 480-2.

(b) Any buyer damaged as a result of a violation or failure to comply with any of the requirements of this chapter may bring an action for recovery of damages.

(c) Any health club contract that fails to comply with the requirements of this chapter shall be unenforceable against the buyer."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

ACT 162

H.B. NO. 1985-84

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§359G- Quitclaim deeds. Unless otherwise provided by law, the authority shall issue quitclaim deeds and leases whenever it conveys, transfers, sells or assigns any property developed, constructed or sponsored under this chapter."

SECTION 2. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§356- Quitclaim deeds. Unless otherwise provided by law, the authority shall issue quitclaim deeds and leases whenever it conveys, transfers, sells or assigns any property developed, constructed or sponsored under this chapter."

SECTION 3. Chapter 359, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§359- Quitclaim deeds. Unless otherwise provided by law, the authority shall issue quitclaim deeds and leases whenever it conveys, transfers, sells or assigns any property developed, constructed or sponsored under this chapter."

SECTION 4. Chapter 516, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§516- Quitclaim deeds. Unless otherwise provided by law, the authority shall issue quitclaim deeds and leases whenever it conveys, transfers, sells or assigns any property developed, constructed or sponsored under this chapter."

SECTION 5. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 25, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 163

H.B. NO. 2151-84

A Bill for an Act Relating to the State Highway Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

"§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the

taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that from July 1, 1981 to June 30, [1984] 1987 all taxes derived from the sale of liquid fuel under section 237-16, sold or used for operating motor vehicles upon the public highways of the State, shall be deposited into the state treasury to the credit of the state highway fund.

The director of taxation with the approval of the governor shall establish by July 1 of [1981, 1982, and 1983] 1984, 1985, and 1986 a formula that will equitably establish the amount of taxes collected under section 237-16 in each fiscal year that are derived from the sale of liquid fuel sold or used for operating motor vehicles upon the public highways of the State which are to be deposited into the state treasury to the credit of the state highway fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. For fiscal year 1984-85, all taxes deposited in the state treasury to the credit of the state highway fund pursuant to Section 1 of this Act shall be exempt from the provisions of section 36-28, Hawaii Revised Statutes.

SECTION 4. If any provisions of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect on July 1, 1984.

(Approved May 25, 1984.)

ACT 164

S.B. NO. 26

A Bill for an Act Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§437- New motor vehicle; express warranties, return. (a) If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity in writing to the manufacturer, or at its option, its agent, distributor, or its authorized dealer during the term of such express warranties, then the manufacturer, its agent, distributor, or its authorized dealer shall make such repairs as are necessary to conform the

vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term.

(b) If the manufacturer, its agents, distributor, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price including all collateral charges, excluding interest, and less a reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair such use and market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

(c) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair three or more times by the manufacturer, its agents, distributor, or authorized dealers within the express warranty term but such nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of thirty or more business days during such term. The term of an express warranty and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster. The presumption provided in this subsection shall not apply against a manufacturer if the manufacturer has not received a written report of the nonconformity from the consumer in accordance with subsection (a), its agent, distributor, or authorized dealer, or if the manufacturer has been denied a reasonable opportunity to repair the nonconformity alleged. During the term of the express warranty, any manufacturer, agent, distributor, or authorized dealer shall provide a written work order to a consumer who delivers a motor vehicle for repair. The consumer shall sign and receive a copy of the work order.

(d) Nothing in this section in any way shall limit the rights or remedies which are otherwise available to a consumer under any other law.

(e) If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of

Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.

(f) Any action brought under this section shall be commenced within one year following expiration of the express warranty term."

SECTION 2. Section 437-1.1, Hawaii Revised Statutes, is amended by amending the definition of "consumer" to read as follows:

"(5) "Consumer" means [a] any person who [intends to or actually drives or physically utilizes] purchases, other than for purposes of resale, a motor vehicle for [his] personal, family, household, or business use, [including the business of renting or leasing motor vehicles.] any person to whom such motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 165

S.B. NO. 29

A Bill for an Act Relating to Time Sharing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514E-11, Hawaii Revised Statutes, is amended to read as follows:

"§514E-11 **Prohibited practices.** It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements, or make any offer thereof, without fully disclosing that the device is

being used or offered for the purpose of soliciting sales of time share units or interests;

- (3) Offer a prospective purchaser a prize or gift, in writing, as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend a sales presentation unless written disclosure is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type and contains all of the following:
 - (A) A full description of the exact prize or gift won by the prospective purchaser including its cash value;
 - (B) All terms and conditions attached to the prize or gift;
 - (C) A statement that the consumer must attend a sales presentation; and
 - (D) An identification of the time share project to be offered for sale including type of ownership, exchange privileges, limitations, and price ranges of the time share interests in that project;
- [(3)] (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- [(4)] (5) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- [(5)] (6) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- [(6)] (7) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit; or
- [(7)] (8) Make a sales presentation to a prospective purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument."

SECTION 2. Section 514E-11.1, Hawaii Revised Statutes, is amended to read as follows:

"[]§514E-11.1[] **Deceptive trade practices.** It shall constitute an unfair or deceptive practice, within the meaning of chapter 480, for any developer, acquisition agent, or sales agent of time share units or plans to:

- (1) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements

without fully disclosing that the device is being used for the purpose of soliciting sales of time share interests;

- (2) Offer a prospective purchaser a prize or gift, in writing, as part of any time share advertising or sales promotion plan, if in order to claim the prize or gift, the prospective purchaser must attend a sales presentation unless the written disclosure described in section 514E-11(3) is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type;
- [(2)] (3) Fail to inform each purchaser orally and in writing, at the time he signs the contract of his five-day right to cancel or void the contract to purchase a time share interest in a time share plan or unit;
- [(3)] (4) Misrepresent in any manner the purchaser's right to cancel or void any contract to purchase a time share interest in a time share plan or unit;
- [(4)] (5) Include in any contract or document provisions purporting to waive any right or benefit to which the purchaser is entitled under this chapter;
- [(5)] (6) Fail or refuse to honor any valid notice of cancellation of the contract by the purchaser, and within fifteen business days after receipt of such notice, fail or refuse to refund all payments made under the contract or sale; or fail or refuse to cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any appropriate action to terminate promptly any mortgage, lien, or other security interest created in connection with the transaction;
- [(6)] (7) Fail to include on promotional literature and other printed or written material the caption "THIS IS A TIME SHARING SALES PRESENTATION" (in capital letters of 24-point bold type, or type as large as the largest printing or writing elsewhere in the material), under which must be printed (in type of the same size as the caption described above) the following: "Any purchaser has, under the law, a five-day right of rescission of any time sharing sales contract";
- [(7)] (8) Misrepresent the amount of time or period of time the time share unit will be available to any purchaser;
- [(8)] (9) Misrepresent or deceptively represent the location or locations of the offered time share unit;
- [(9)] (10) Misrepresent the size, nature, extent, qualities, or characteristics of the offered time share units;

- [(10)] (11) Misrepresent the nature or extent of any services incident to the time share unit;
- [(11)] (12) Misrepresent the conditions under which a purchaser may exchange his occupancy rights to a time share unit in one location for occupancy rights to a time share unit in another location; or
- [(12)] (13) Fail to orally disclose during the initial oral contact with a prospective purchaser that any promised entertainment, prizes, gifts, food and drinks, games, or other inducements are being offered for the purpose of soliciting sales of time share interests in time share units or plans."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 166

S.B. NO. 761

A Bill for an Act Relating to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended to read as follows:

"§329-14 **Schedule I.** (a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;

- (13) Diampromide;
- (14) Diethylthiambutene;
- (15) Difenoxin;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxidine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacymorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimerperidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;

- (9) Drotebanol;
- (10) Etorphine;
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Phoclo-dine;
- (23) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 2, 5 dimethoxyamphetamine (2, 5-DMA);
- (2) 3, 4-methylenedioxy amphetamine;
- (3) 5-methoxy-3, 4-methylenedioxy amphetamine;
- (4) 4-bromo-2, 5 dimethoxyamphetamine (4-bromo-2, 5-DMA);
- (5) 3, 4, 5-trimethoxy amphetamine;
- (6) Bufotenine;
- (7) 4-methoxyamphetamine (PMA);
- (8) Fenethyl-line;
- (9) Diethyltryptamine;
- (10) Dimethyltryptamine;
- (11) 4-methyl-2, 5-dimethoxyamphetamine;
- (12) Ibogaine;
- (13) Lysergic acid diethylamide;
- (14) Marijuana;
- (15) Mescaline;
- (16) Peyote;
- (17) N-ethyl-3-piperidyl benzilate;
- (18) N-methyl-3-piperidyl benzilate;
- (19) Psilocybin;
- (20) Psilocyn;
- (21) Tetrahydrocannabinols;
- (22) Ethylamine analog of phencyclidine (PCE);

- (23) Pyrrolidine analog of phencyclidine (PcPy, PHP);
- (24) Thiophene analog of phencyclidine (TPCP). (TPCP; TCP).

(e) Unless specifically excepted, the schedule shall include any material, compound, mixture, or preparation which contains any quantity, of the substance methaqualone."

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Amobarbital;
- [(2)] (2) Methaqualone;
- (3)] (2) Pentobarbital;
- [(4)] (3) Phencyclidine;
- [(5)] (4) Phencyclidine immediate precursors:
 - (A) 1-phenylcyclohexylamine;
 - (B) 1-piperidinocyclohexanecarbonitrile (PCC);
- [(6)] (5) Secobarbital."

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 167

S.B. NO. 1516-84

A Bill for an Act Relating to Vital Statistics.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is amended to read:

"§338-17.7 Establishment of new certificates of birth, when. [(a) The director of health shall establish a new birth certificate for a person born in this State upon receipt of a certified copy of a court determination of paternity

together with a request from the parent or person having legal custody of the child that such new certificate be prepared.

(b) A new certificate of birth shall be prepared by the director of health for a child or children legitimated as provided in section 338-21.

(c) A new certificate of birth shall be prepared by the director of health for a child or children born in a foreign country upon compliance with section 338-20.5.

(d) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has examined the person and has found that the sex item on the person's birth certificate was entered incorrectly.

(e) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit of a physician that he has examined the person who has had a sex change operation and that by reason of the operation the sex designation on such person's birth record should be changed. The director of health may make a further investigation or require any further information he deems necessary.

(f) A new certificate of birth shall be prepared by the director of health for a person born in the State upon showing by a law enforcement agency that such issuance would provide for the safety of such person. The new certificate of birth shall contain such information as requested by such law enforcement agency.]

(a) The department of health shall establish, in the following circumstances, a new certificate of birth for a person born in this State who already has a birth certificate filed with the department and who is referred to below as the "birth registrant":

- (1) Upon receipt of documents showing that the birth registrant has been legitimated pursuant to section 338-21, together with a request from the birth registrant, or the birth registrant's parent or other person having legal custody of the birth registrant, that a new birth certificate be prepared because previously recorded information has been altered pursuant to law;
- (2) Upon receipt of a certified copy of a final order, judgment, or decree of a court of competent jurisdiction that determined the nonexistence of a parent and child relationship between a person identified as a parent on the birth certificate on file and the birth registrant;
- (3) Upon receipt of a certified copy of a final adoption decree, or of an abstract of the decree, pursuant to sections 338-20 and 578-14;
- (4) Upon receipt of an affidavit of a physician that the physician has examined the birth registrant and has determined the following:

- (A) The birth registrant's sex designation was entered incorrectly on the birth registrant's birth certificate; or
- (B) The birth registrant has had a sex change operation and the sex designation on the birth registrant's birth certificate is no longer correct; provided that the director of health may further investigate and require additional information that the director deems necessary; or
- (5) Upon request of a law enforcement agency certifying that a new birth certificate showing different information would provide for the safety of the birth registrant. Notwithstanding subsection (b), in such instance, the new birth certificate shall contain such information as requested by the law enforcement agency, shall be assigned a new number and filed accordingly, and shall not substitute for the birth registrant's original birth certificate, which shall remain in place.

[(g)] (b) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed. Such sealed document shall be opened only by an order of a court of record."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 168

S.B. NO. 1744-84

A Bill for an Act Relating to Medicine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

"§453- Physician assistant; certification required. (a) The board of medical examiners shall require each person practicing medicine under the supervision of a physician to be certified as a physician assistant. A person who is trained to do only a very limited number of diagnostic or therapeutic procedures under the direction of a physician shall not be deemed a practitioner of medicine and therefore does not require certification under this section.

(b) The board shall establish medical educational and training standards with which a person applying for certification as a physician assistant shall comply. The standards shall be at least equal to recognized national education and training standards for physician assistants.

(c) Upon satisfactory proof of compliance with the required medical educational and training standards, the board may grant certification to the person upon the person's satisfactory completion of a national certifying examination approved by the board.

(d) The board shall establish the degree of supervision required by the supervising physician when a physician assistant performs a service within the practice of medicine. A physician who does not supervise a physician assistant's services at the degree required by the board shall be deemed to have engaged in professional misconduct.

(e) The certification of a physician assistant shall be subject to revocation, limitation, or suspension under section 453-8.

(f) The board shall establish the application procedure, medical, educational, and training standards, examination requirement, if any, and degrees of supervision by rule.

§453- Review of complaints and information by department. (a) The department of commerce and consumer affairs shall review each complaint and information received under sections 92-17, 329-44, 453-8.7, 663-1.7, 671-5, and 671-15. The department shall investigate the complaint or information if it appears that the physician who is the subject of the complaint or information has violated this chapter. If the department determines that the physician has violated this chapter, the department shall present the results of its investigation to the board of medical examiners for appropriate disciplinary proceedings.

(b) Reports of adverse decisions of peer review committees transmitted to the department under section 663-1.7 shall not be available to public inspection or subject to discovery and shall be held confidential by the department; provided that:

- (1) A written affirmative or negative reply may be given to a written inquiry by a hospital or health care facility as to whether a report of an adverse decision is on file with the department; and
- (2) A subpoenaed report shall be subject to the requirements under section 453-17."

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

"§453- Temporary certification. The board shall approve temporary certification of an applicant under section 453-32 if the applicant has not taken

the written and practical examination of the National Registry of Emergency Medical Technicians but otherwise meets the requirements of section 453-32(1).

The temporary certification shall be valid until the results are issued by the board for the written and practical examination immediately following the date of temporary certification, unless sooner revoked for good cause.

§453- Delegation to committee of practicing emergency physicians and emergency ambulance personnel. The board of medical examiners shall establish a committee consisting of practicing emergency physicians and emergency ambulance personnel to assist the board in the performance of duties under this part.

The board, by written order, may delegate to the committee any of its powers and duties for administration of this part, except that the board shall not delegate any authority to adopt, amend, or repeal rules, take disciplinary action against a certificate holder, or restore a certificate which has been revoked."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 [[NEW]] Repeal dates. [(a) [DELETED] (b)] (a) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- [(4) Chapter 453 (Board of Medical Examiners)
- (5)] (4) Chapter 457 (Board of Nursing)
- [(6)] (5) Chapter 447 (Dental Hygienists)

[(c)] (b) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)

[(d)] (c) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)

(6) Chapter 439 (Board of Cosmetology)

[e] (d) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

[f] (e) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)

[g] (f) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

(g) The following chapter is hereby repealed effective December 31, 1990:

- (1) Chapter 453 (Board of Medical Examiners)."

SECTION 4. Section 321-227, Hawaii Revised Statutes, is amended to read as follows:

"[]§321-227[] **Regulation of ambulances.** The department of health shall adopt, amend, and repeal rules under chapter 91 for the regulation of ambulances within the State, including but not limited to the certification of vehicles, equipment, supplies, and communications systems. Any person who provides emergency medical service as an employee of any emergency ambulance service shall be subject to chapter 453. [In the absence of implementation of certification under chapter 453 the department of health shall provide for the certification of such personnel in accordance with the state system's requirements.]"

SECTION 5. Section 321-229, Hawaii Revised Statutes, is amended to read as follows:

“§321-229 Emergency medical services personnel, training programs. The department of health shall be responsible for the training of basic life support and advanced life support personnel and may contract for such training with accredited community colleges, colleges, and universities, and with professional medical organizations recognized by the American Medical Association. The basic life support and advance life support training programs shall be [based on a medical model.] relevant to and consistent with the training course required for certification under chapter 453.”

SECTION 6. Section 329-44, Hawaii Revised Statutes, is amended to read as follows:

“[[§329-44]] Notice of conviction to be sent to licensing board[.], department of commerce and consumer affairs. On the conviction of any physician, dentist, podiatrist, veterinarian, practitioner, apothecary, manufacturer, wholesaler, or producer, of the wilful violation of this chapter, a copy of the sentence and of the opinion of the court or district judge, if any [be] is filed, shall be sent by the clerk of the court, or by the judge, to the board or officer, if any, by whom the convicted defendant has been licensed to practice his profession or to carry on his business[.]; and if the convicted defendant is a physician, a copy of the sentence and of the opinion, if any, shall be sent to the department of commerce and consumer affairs.”

SECTION 7. Section 453-2, Hawaii Revised Statutes, is amended to read as follows:

“§453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters “DR.” or “M.D.” to one's name, with the intent thereby to imply that the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) [apply] Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) [prohibit] Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) [apply] Apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of one's official duty, nor to any practitioner of

- medicine and surgery from another state¹, at the time of such consultation, is licensed to practice in the state in which he resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; or
- (4) [prohibit] Prohibit services rendered by any [physician-support personnel] person certified under part II of this chapter to provide emergency medical services or any [physician's] physician assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs [such support personnel and] a person certified under part II of this chapter to provide emergency medical services or [physician's] physician assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such [personnel] person or [physician's] physician assistant. [The board of medical examiners shall, in conformity with chapter 91, promulgate rules regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part II.]”

SECTION 8. Section 453-3, Hawaii Revised Statutes, is amended to read as follows:

“§453-3 Limited and temporary licenses. The board of medical examiners shall issue a limited and temporary license to an applicant who has not been examined as required by section 453-4, and against whom no disciplinary proceedings are pending in any state or territory, if the applicant is otherwise qualified to be examined, and upon determination that:

- (1) There is an absence or a shortage of licensed physicians in a particular locality, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery

by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to the applicant. The license shall be valid only for a period of eighteen months from the date of issuance[; or]. The board shall establish guidelines to determine a locality with an absence or shortage of physicians. For this purpose, the board may consider a locality to have an absence or shortage of physicians if the absence or shortage results from the temporary loss of a physician. In designating a locality with an absence or shortage of physicians, the board shall not delegate its authority to a private organization;

- (2) The applicant is to be employed by an agency or department of the state or county government, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the practice of medicine and surgery while the applicant is in the employ of such governmental agency or department and in no case shall be used to provide private patient care for a fee. A license issued under this [subparagraph] paragraph may be renewed from year to year; [or]
- (3) The applicant would practice medicine and surgery only while under the direction of a physician regularly licensed in the State other than as permitted by this section, and that the applicant intends to take the regular licensing examination conducted by the board within the next eighteen months. In no case shall a limited and temporary license issued hereunder be valid for more than a period of eighteen months from the date of issuance; [or]
- (4) The applicant has been appointed as [an intern] a resident or accepted for specialty [or resident] training in a hospital approved by the board, and that the applicant shall be limited in the practice of medicine and surgery to the extent required by the duties of the applicant's position or by the program of training while at the hospital. A limited and temporary license hereunder shall be issued without regard to the requirement of section 453-4(4) relative to [internship] residency. The license shall be valid during the period in which the applicant remains as [intern or] a resident in training, and may be renewed from year to year during the period; or
- (5) A public emergency exists, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the period of such public emergency.

Nothing herein requires the registration or licensing hereunder of nurses, or other similar persons, acting under the direction and control of a licensed physician.”

SECTION 9. Section 453-4, Hawaii Revised Statutes, is amended to read as follows:

“§453-4 Qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless the applicant has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for the examination the applicant shall furnish proof satisfactory to the board that:

- (1) The applicant is of demonstrated competence and professional knowledge;
- (2) (A) The applicant is a graduate of a medical school or college approved by the Council on Medical Education and [hospitals] Hospitals of the American Medical Association; or
(B) The applicant is a graduate of a foreign medical school[, who] and has had at least [three years’ medical experience or training] two years of residency in a hospital approved by the Council on Medical Education and [hospitals] Hospitals of the American Medical Association for the [internship or] residency[.]; and [has passed the qualifying examination of] holds the national certificate of the Educational [Council] Commission for Foreign Medical Graduates or its successor;
- (3) The applicant has served [an internship] a residency of at least one year in either a hospital which has been certified or approved for the training of [interns and] resident physicians by the American Medical Association, Council on Medical Education and Hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American Medical Association approval, or has completed one year of residency training in a program approved by the American Medical Association, Council of Medical Education and Hospitals.

Diplomates of the national board of medical examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), and (3) above, shall be licensed without the necessity of any further examination; provided that with respect to any applicant the board may require letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant or chief

residents on a service who have been associated with an applicant during the applicant's training or practice to be used by the board in assessing the applicant's qualifications to practice medicine.”

SECTION 10. Section 453-5, Hawaii Revised Statutes, is amended to read as follows:

“§453-5 Board of medical examiners; appointment, removal, qualifications. (a) For the purpose of carrying out this chapter the governor shall appoint in the manner prescribed in section 26-34, a board of medical examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery.

The board shall consist of nine persons, seven of whom shall be physicians or surgeons licensed under the laws of the State and two of whom shall be lay members appointed from the public at large. Of the seven physician or surgeon members, four shall be appointed from the city and county of Honolulu and one each from each of the other counties. Medical societies in the various counties may conduct elections periodically but no less frequently than every two years to determine nominees for the board to be submitted to the governor. In making appointments the governor may consider recommendations submitted by the medical societies and the public at large. Each member shall serve until a successor is appointed and qualified.

(b) The members of the board shall serve without pay; provided that they shall be allowed their reasonable expenses for travel and other costs incurred in the discharge of their duties. A majority of the board shall constitute a quorum.

The board shall hold its meetings in public places and shall comply with chapter 92.

(c) The department of commerce and consumer affairs shall provide administrative support to the board. The department shall employ, not subject to chapters 76 and 77, an executive secretary to administer the board's activities[.] and an employee to administer the medical claims conciliation panels established under chapter 671. The employee responsible for administration of the medical claims conciliation panels shall be under the executive secretary, but shall have no duties in administration of the board's activities.”

SECTION 11. Section 453-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of commerce and consumer affairs shall establish a medical advisory committee, the members of which shall serve as consultants to the board of medical examiners in its review of physicians referred for possible disciplinary action[.] and as consultants to the department of commerce and consumer affairs for investigations under section 453- . The advisory committee

shall be appointed by the director from a list of twenty-five physicians submitted annually by the board.

The director shall develop an information sheet for each member describing the committee's purpose, roles and responsibilities of members, and procedures used to carry out the committee's work. When the board or director requests assistance from the committee on a case, the board or director, as the case may be, shall delete the name of the physician prior to submission to the committee."

SECTION 12. Section 453-8.7, Hawaii Revised Statutes, is amended to read as follows:

"§453-8.7 Reporting requirements. (a) Every physician licensed pursuant to this chapter who does not possess professional liability insurance shall report any settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or the unauthorized rendering of professional services. The report shall be submitted to the [board of medical examiners] department of commerce and consumer affairs within thirty days after any written settlement agreement has been reduced to writing and signed by all the parties thereto or thirty days after service of the arbitration award on the parties.

(b) Failure of a physician to comply with the provisions of this section is an offense punishable by a [board imposed] fine of not less than \$100 for the first offense, \$250 to \$500 for the second offense, and \$500 to \$1,000 for subsequent offenses.

(c) The clerks of the respective courts of this State shall report to the [board] department any judgment or other determination of the court which adjudges or finds that a physician is liable criminally or civilly for any death or personal injury caused by the physician's professional negligence, error, or omission in the practice of [one's] the physician's profession, or rendering of unauthorized professional services. The report shall be submitted to the [board] department within ten days after the judgment is entered by the court.

(d) The [board] department shall prescribe forms for the submission of reports required by this section."

SECTION 13. Section 453-17, Hawaii Revised Statutes, is amended to read as follows:

"[]§453-17[] [Investigation by board.] Subpoena of peer review adverse decision report. In connection with an investigation [by the board of medical examiners on its own motion, or as the result of information received by the board pursuant to sections 92-17, 453-8.7, or 663-1.7(d),] under section 453-, the director of commerce and consumer affairs may issue subpoenas, pursuant to section 26-9(i), compelling the production of hospital records of patients

whose cases were reviewed by a peer review committee that filed a report pursuant to section 663-1.7, notwithstanding section 624-25.5. A medical society, hospital, or health care facility shall expunge from the documents specific patient identifiers. Information for investigation which was obtained through a subpoena shall be for the sole use by the [board] department of commerce and consumer affairs to carry out its responsibilities and functions and shall be held confidential by the [board,] department, unless the information is admissible evidence at a hearing held under section 453-9. This investigation shall be deemed a sensitive matter related to public safety under section 92-5."

SECTION 14. Section 453-31, Hawaii Revised Statutes, is amended to read as follows:

"**[[§453-31[]] Emergency ambulance service personnel.** The practice of any emergency medical services by any individual employed by an emergency ambulance service who is not licensed under this chapter or under chapter 457 shall be subject to certification under this part. In the event of any conflict between this part and any rules adopted under section 453-2, the provisions of this part shall control with regard to emergency ambulance service personnel.

The board of medical examiners shall define the scope of the practice of emergency medical services, different levels of the practice, and degree of supervision required of a supervising physician when a person certified under this part provides services within the practice of medicine."

SECTION 15. Section 453-32, Hawaii Revised Statutes, is amended to read as follows:

"**[[§453-32[]] Certification of emergency ambulance personnel.** The board of medical examiners shall certify individuals as qualified in emergency medical services upon application therefor; provided that the applicant for certification:

- (1) [Has successfully passed an examination recognized by the board of medical examiners to determine the knowledge and competence of emergency ambulance personnel; or who] Holds a certificate from the National Registry of Emergency Medical Technicians, has satisfactorily passed a [board-recognized] course of training in emergency medical services for emergency ambulance services personnel; or who] which shall be based on the national curriculum of the United States Department of Transportation and approved by the board, and meets other standards and qualifications [which may be], including passage of an examination, set by the board of medical examiners pertinent to the [emergency medical services work of emergency ambulance services personnel;] practice of emergency medical services in Hawaii;

(2) Meets continuing education requirements which shall be set by the board of medical examiners; and

(3) Meets other qualifications set by the board of medical examiners. The board shall directly review the credentials of applicants and administer examinations required. Certification under this section shall be a prerequisite to the practice of emergency medical services as an employee of an emergency ambulance service.

The board of medical examiners shall provide standard application forms for the certification of emergency ambulance personnel[,] and shall provide for the periodic renewal of such certification. The board of medical examiners shall assess a fee for such application, certification, and renewal. The board of medical examiners shall provide for the lapsing, revocation, suspension, or limitation of certification in the event an individual once certified under this section fails to maintain or meet requirements for continued certification, or for good cause shown.”

SECTION 16. Section 663-1.7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The final peer review committee of a medical society, hospital, or other health care facility shall report in writing every adverse decision made by it to the [board of medical examiners.] department of commerce and consumer affairs. The report shall be filed within thirty business days following an adverse decision. The report shall contain information on the nature of the action, its date, the reasons for, and the circumstances surrounding the action[.]; provided that specific patient identifiers shall be expunged. If a potential adverse decision was superseded by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall so state. The [board] department shall prescribe forms for the submission of reports required by this section. Failure to comply with this subsection shall be a violation punishable by a fine of not less than \$100 for each member of the committee.”

SECTION 17. Section 671-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The insurance commissioner shall forward the name of every health care provider, except a hospital[,] or physician licensed under chapter 453, against whom a settlement is made, an arbitration award is made, or judgment is rendered to the appropriate board of professional registration and examination for review of the fitness of the health care provider to practice his profession. The insurance commissioner shall forward the entire report under subsection (a) to the department of commerce and consumer affairs if the person against whom settlement or arbitration award is made or judgment rendered is a physician licensed under chapter 453.”

SECTION 18. Section 671-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within thirty days after the completion of a hearing, the medical claim conciliation panel shall file a written advisory decision with the insurance commissioner who shall thereupon mail copies to all parties concerned, their counsel, and the representative of each health care provider’s liability insurance carrier authorized to act for such carrier, and the [board of medical examiners or] board of osteopathic examiners, as appropriate. The insurance commissioner also shall mail copies of the advisory decision to the department of commerce and consumer affairs, if the claim is against a physician or surgeon licensed under chapter 453. The panel shall decide the issue of liability and shall state its conclusions in substantially the following language: “We find the health care provider was actionably negligent in his or her care and treatment of the patient and we, therefore, find for the claimant”; or “We find the health care provider was not actionably negligent in his or her care and treatment of the patient and we, therefore, find for the health care provider”.”

SECTION 19. Section 453-8.3, Hawaii Revised Statutes, is repealed.

SECTION 20. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 21. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

Notes

1. So in original. Missing language.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to School Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Motor scooters;
- (2) Motorcycles and motor scooters;

- (3) Passenger cars of any gross vehicle weight rating and trucks and buses having a gross vehicle weight rating of ten thousand pounds or less;
- (4) All of the motor vehicles in category (3) and buses with a gross vehicle weight rating of more than ten thousand pounds;
- (5) All of the motor vehicles in category (3) and trucks having a gross vehicle weight rating of more than ten thousand pounds, other than tractor-semitrailer combinations and truck-trailer combinations;
- (6) All of the motor vehicles in category (5) and tractor-semitrailer combinations;
- (7) All of the motor vehicles in category (6) and truck-trailer combinations;
- (8) All of the motor vehicles in categories (4) and (5);
- (9) All of the motor vehicles in categories (4) and (6);
- (10) All of the motor vehicles in categories (4) and (7).

A school bus or van operator [must] shall be properly licensed to operate the category of vehicles that he operates as a school bus or van and [in addition must hold a] shall comply with the standards of the department of [education school bus operator certificate] transportation as provided by rules [or regulations promulgated] adopted pursuant to section 286-181."

SECTION 2. Section 286-181, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department of transportation shall adopt safety rules and standards relating to school vehicles, equipment, and drivers, including but not limited to:

- (1) School vehicle and school vehicle equipment design, construction, and identification;
- (2) School vehicle driver qualification and training as required by law;
- (3) School vehicle operation;
- (4) School vehicle maintenance and maintenance records;
- (5) Special school vehicle safety inspections; and
- (6) Criteria for passenger loading and unloading safety areas[.];

provided that the rules and standards shall permit the use of small school buses or vans weighing less than ten thousand pounds for the transportation of pupils of a day care center, child care facility, headstart program, and preschool, or of school athletes and school athletic staffs to and from school related athletic activities."

SECTION 3. The department of transportation shall adopt rules and standards pursuant to section 286-181, relating to the use of school buses and vans weighing less than 10,000 pounds for the transportation of pupils of day care centers, child care facilities, headstart programs, and preschools and for

school related athletic activities. Until such time as rules are adopted by the department, buses and vans shall meet those safety requirements imposed upon motor vehicles engaged in transporting persons on the public highways in furtherance of a commercial or educational enterprise (P.U.C. regulations) with respect to equipment design, construction, and safety inspection. In addition, the following rules shall be in effect until the department adopts its rules and standards.

- (1) Buses and vans shall be identified on the front and rear with the words "SCHOOL BUS" printed in black letters not less than eight inches high in strokes not less than three-fourths inch in width.
- (2) Buses and vans shall be protected by a metal guard or guards around the circumference of the drive-shaft.
- (3) Buses and vans and those driving them shall comply with either safety rules or standards of the department of transportation, or safety rules and standards of other state departments continuing in effect pursuant to Act 94, Session Laws of Hawaii 1983, relating to school vehicle driver qualification and training, school vehicle operation, school vehicle maintenance and maintenance records, and criteria for passenger loading and unloading safety areas.

SECTION 4. School buses and vans weighing less than 10,000 pounds which are used in the transportation of pupils of day care centers, child care facilities, headstart programs, and preschools, and for school related athletic activities shall not have to comply with rules and standards of the department of transportation with respect to vehicle color until two years after the effective date of this Act.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 170

S.B. NO. 1949-84

A Bill for an Act Relating to the Authorization of Refunding Special Purpose Revenue Bonds for Utilities Serving the General Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of refunding special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in Act 15, First Special Session Laws of Hawaii 1981, relating to the authorization of special purpose revenue bonds to assist utilities serving the general public, and such refunding bonds shall be bonds for the multi-project program described in said Act 15. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 3. The refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part VI, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist utilities serving the general public in providing electric energy or gas.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 171

S.B. NO. 2073-84

A Bill for an Act Relating to Legislative Salaries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 24, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read:
"§24- Payment of legislative salaries. The annual salary of any legislator, as determined pursuant to article III, section 9, of the constitution of the State of Hawaii, shall be paid in equal amounts, beginning with the first pay period for state employees in November of the year the legislator is elected."
2. By amending the title to read:

"ALLOWANCE AND SALARY FOR LEGISLATORS"

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act, upon its approval, shall take effect upon the voters' ratification of the proposed constitutional amendment to Article III, Section 9, of the Constitution of the State of Hawaii, providing that the method of payment of legislative salaries shall be as provided by law.

(Approved May 26, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 172

S.B. NO. 2209-84

A Bill for an Act Relating to Grants, Subsidies, and Purchases of Service.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 42-1, Hawaii Revised Statutes, is amended to read as follows:

“[[§42-1]] **Definitions.** As used in this chapter, unless the context otherwise requires:

[(1)] “Agency” means the judiciary, any department, office, board, foundation, commission, or other establishment of the state government, including the University of Hawaii.

[(2)] “Chief executive” means the chief justice in the case of the judiciary or the governor in the case of the State.

[(3)] “Director” means the administrative director of the courts in the case of the judiciary or the director of finance in the case of the State.

[(4)] “Grant” means an [appropriation] award of public funds to a recipient, generally on a one-time basis, based on merit or need, to stimulate and support activities of the recipient for a specified public purpose.

[(5)] “Nepotism” means appointing persons to positions on a basis of their blood or marital relationship to the appointing authority, rather than on merit or ability.

[(6)] “Perquisite” means a privilege furnished or a service rendered by an organization to an employee, officer, director, or member of that organization to reduce the individual’s personal expenses.

[(7)] “Provider” means any [person, association or corporation] organization contracted by the State to provide services under a purchase of service [contract.] agreement.

[(8)] “Purchase of service” means [the exchange by an agency of goods and services to be delivered by a provider to the general public or specified members of the general public for cash payments substantially equal in value to such goods and services; but not including] an appropriation of public funds for the provision of services by an organization to specific members of the general public on behalf of an agency to fulfill a public purpose. Payments for such services shall be substantially equal in value to the services provided; provided that the purchase of [service] services of a court-appointed attorney for an indigent[.], the professional services of individuals in private business or

professions, and services subject to the competitive bidding requirements of chapter 103 shall be excluded.

[(9)] "Recipient" means [a person, association or corporation] any organization receiving a grant or a subsidy.

[(10)] "Request" means a proposal for a grant, subsidy, or [proposal for a] purchase of service contract.

[(11)] "Subsidy" means an appropriation of public funds, to an expressly named recipient or expressly designated as a subsidy, made to alter the price or the cost of a particular good or service of the recipient [for the purpose of encouraging or discouraging the output or supply of these items.] to enable the recipient to provide services or goods to the general public or specified members of the general public at a lower price than would otherwise be charged by the recipient."

SECTION 2. Section 42-2, Hawaii Revised Statutes, is amended to read as follows:

"[] §42-2[] Qualifying standards for [applicants.] organizations. [An applicant] Any organization applying for a grant, subsidy, or purchase of service agreement shall meet all of the following standards:

- (1) Be a profit organization incorporated under the laws of the State or a nonprofit organization determined to be exempt from the federal income tax by the Internal Revenue Service;
- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;
- (3) Have bylaws or policies which describe the manner in which business is conducted[, including for nonprofit organizations,] and policies relating to nepotism and management of potential conflict of interest situations;
- (4) Have at least one year's experience with the project or in the program area for which the request is being made; and
- (5) Be licensed and accredited, as applicable, in accordance with [applicable] the requirements of federal, state, and county governments."

SECTION 3. Section 42-3, Hawaii Revised Statutes, is amended to read as follows:

"§42-3 Conditions for grants, subsidies, or purchases of service agreement. [Applicants] Organizations to whom a grant, [or] subsidy [has been made], or a purchase of service agreement has been awarded, shall agree to comply with the following conditions before receiving the grant, subsidy, or purchase of service agreement:

- (1) Employ or have under contract such persons as are qualified to engage in the activity to be funded in whole or in part by the State; provided that for nonprofit organizations, no two or more members of a family or kin of the first or second degree shall be employed or under contract by the organization unless specifically permitted in writing by the director of the expending agency for the appropriation; provided further [for nonprofit organizations without negotiated wage contracts, that the provider or recipient shall also agree that any salary or employee benefit increase shall be granted only upon the prior approval of the director of the expending agency or the grants, subsidies, or purchases of service agreement shall be subject to a decrease by an amount equal to the amount of increase not so approved;] that no salary or benefit increases granted by the organization shall be funded with public funds unless the increases are agreed to by the director of the expending agency in the contract with the organization;
- (2) Comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap;
- (3) Agree not to use [any] public funds for purposes of entertainment or perquisites;
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the provider or recipient with federal, state, and county laws; and
- (5) Allow the expending agency, the director, the committees of the legislative bodies and their staffs, and the legislative auditor full access to records, reports, files, and other related documents in order that the program, management, and fiscal practices of the providers or recipients may be monitored and evaluated to assure the proper and effective expenditure of public funds.”

SECTION 4. Section 42-4, Hawaii Revised Statutes, is amended to read as follows:

“[]§42-4[] Required review of requests. (a) Every agency anticipating the need to purchase services shall determine the services needed and shall solicit proposals for potential providers.

[(a)] (b) Every request for a grant, subsidy, or purchase of service agreement shall be reviewed as provided in this section.

[(b)] (c) Every request for a grant, subsidy, or purchase of service agreement shall be submitted to the director, who shall [then] transmit the request to the appropriate agency for review. The request shall be submitted on forms provided by the director and shall contain a statement of the objective of

the activity to be funded by the grant, subsidy, or purchase of service agreement, financial information regarding the provider or recipient, personnel position salaries, and such other information as the director shall require.

[(c)] (d) The director shall adopt rules, pursuant to chapter 91, defining conditions for grant, subsidy, or purchase of service agreement, the timetable for the submission of requests, the analysis required of requests, and in the case of purchases of service, the procedure for soliciting requests. The director may adopt such other rules as may be necessary to meet the requirements of this section.

[(d)] (e) The appropriate agency shall review each request to determine the efficiency and the effectiveness of the proposed grant, subsidy, or purchase of service [agreement] in achieving the objectives of the judiciary or the State. The review shall include an analysis of the request in terms of the objectives to be achieved, the alternatives by which to achieve the objectives, and the respective costs, benefits, and effectiveness of the alternatives. [Where] When personnel service costs are requested to be funded in whole or in part, the review shall determine the reasonableness of personnel classification and compensation plans. The agency shall invite the [applicant] organization to discuss the request with the agency and to comment on the analysis of the agency.

[(e)] (f) The agency shall prepare a statement of its findings and recommendations for each request. Every request recommended for approval shall be included in the budget submitted by the agency to the chief executive.

(g) Notwithstanding the solicitation of purchase of service proposals by an agency pursuant to subsection (a), if after the solicitation has been made, the agency is unable to identify potential providers who are willing, able, and qualified to satisfactorily provide the desired services, the agency may support proposed budgeted amounts to the extent practicable with information on the types of services solicited and the approximate costs of the various services."

SECTION 5. Section 42-5, Hawaii Revised Statutes, is amended to read as follows:

"§42-5 Submission of requests to the legislature. (a) The chief executive shall review the findings and recommendations and the budget submission of the agency, revise the same as necessary, and submit to the legislature a statement of findings and recommendations on each request for a grant, subsidy, or purchase of service agreement. The chief executive shall include in the executive or judiciary budget submitted to the legislature all requests recommended for [fundings.] funding. Such requests shall be included in the appropriate program budget in an aggregate amount and shall be identified by agency activity and source of funding in a supplemental budget submittal. Where the agency has not been able to identify a qualified provider or recipient for an activity, the chief executive shall include a request for funding of such activities along with

information describing the specific activity to be funded and a list of possible providers or recipients. The chief executive shall summarize in a separate report all requests not recommended for funding and submit the report to the legislature, together with the statements of findings and recommendations[.] at the same time the executive or judiciary budget is submitted. A copy of the statement of findings and recommendations of the chief executive on each request for a grant, subsidy, or purchase of service agreement shall be furnished to the requestor.

(b) Every recommendation for a grant, subsidy, or purchase of service which the chief executive submits to the legislature for appropriation [of funds for a transfer shall include the applicant's request and] shall state:

- (1) The public purpose to be served;
- (2) The objective intended to be achieved;
- (3) The activity and service to be performed;
- (4) The target group to be affected;
- (5) The means of financing;
- [(5)] (6) Measures by which the effectiveness of the grant, subsidy, or purchase of service agreement is to be evaluated;
- [(6)] (7) The analysis and justification for the recommended grant, subsidy, or purchase of service agreement; and
- [(7)] (8) The intended uses of the funds, according to "cost categories" and "cost elements" as defined in section 37-62.

(c) A request not reviewed pursuant to section 42-4(d) may be submitted in writing to the appropriate standing committee of the legislature and shall state that the request has not been reviewed. The chairperson of the appropriate standing committee shall refer such a request to the appropriate agency for review. The agency shall submit a statement of its findings and recommendations to the legislative committee within fifteen days of its receipt of the request."

SECTION 6. Subsection 42-6(a), Hawaii Revised Statutes, is amended as follows:

"(a) Funds for each grant, subsidy, or purchase of service agreement that are not included in the budget submitted by the chief executive to the legislature may be [appropriated] requested by a separate bill; provided that all appropriations are based on a request reviewed in accordance with section 42- 4[(d)] or 42-5(c). The bill shall specify whether a grant, subsidy, or purchase of service is being made, name the recipient [in the case of a grant or subsidy, and] or provider, as the case may be, define the public purpose to be served by the appropriation[.] and, in the case of a purchase of service, state the budget program which is to be supplemented by the service. Funds shall be appropriated by "cost categories" and "cost elements" as defined in section 37-62."

SECTION 7. Section 42-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Appropriations for [grant, subsidy or purchase] grants, subsidies, or purchases of service [agreement] shall be subject to the allotment system generally applicable to all appropriations made by the legislature. The director [shall] may adopt rules pursuant to chapter 91 [to ensure the fair and uniform allotment of appropriations for grant, subsidy or purchase of service agreement.] for the modification or reduction of allotments of appropriations for grants and subsidies in the event of an anticipated revenue shortfall.”

SECTION 8. Section 42-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§42-8]] **Contracts.** (a) [Appropriations] An appropriation for a grant, subsidy, or purchase of service [agreement] shall not be released unless a contract is entered into between the appropriate agency and the recipient or provider. [The director shall develop contract forms for grants, subsidies, and purchases of service.] The agency shall determine [the], in consultation with and subject to the review and approval of the attorney general in the case of the State and the administrative director of the courts in the case of the judiciary, the specific contract form to be used for each grant, subsidy, or purchase of service agreement and shall execute each contract not later than sixty days from the effective date of the appropriation or as soon as practicable thereafter. If the contract is not executed within the sixty days, the agency shall inform the recipient or provider as to when the contract is expected to be executed.

(b) Each contract shall [specify that the State shall not be held liable for any claims or damages resulting from the acts of the recipient or provider. Each recipient or provider shall require signed waivers from the participants in the recipient’s or provider’s program holding the State harmless from liability.] expressly state that the recipient or provider is an independent contractor and provide that the recipient or provider shall indemnify and hold harmless the State, the appropriate contracting agency, and the involved officers, employees, and agents from and against all claims, damages, or costs arising out of or in connection with the acts or omissions of the recipient or provider.

(c) All contracts shall be reviewed by the administrative director of the courts in the case of the judiciary and the attorney general in the case of the State for conformance with the public purpose and legislative intent [of the grant, subsidy or purchase of service agreement.

(d) Every contract with a provider shall be based on a request solicited by the appropriate agency in accordance with the rules adopted by the director pursuant to section 42-4(c).”

SECTION 9. Section 42-12, Hawaii Revised Statutes, is amended to read as follows:

“§42-12 Applicability[.] and interpretation. (a) This chapter shall be construed to be consistent with existing statutory law; provided that, in the case of a conflict, provisions contained in this chapter shall prevail.

(b) The qualifying standards and conditions relating to the receipt of funds contained in this chapter shall not apply to funds that are passed from one governmental agency to another governmental agency[;], including county agencies; provided that, if the receiving agency in turn contracts with a recipient or provider, then the qualifying standards and conditions and other provisions of this chapter shall apply to the recipient or provider[. It shall be the responsibility of the contractor to] and the contract. The receiving agency shall ensure compliance by the recipient or provider.

(c) Notwithstanding the submission of purchase of service proposals and the identification of a potential provider pursuant to sections 42-4 and 42-5, if after an appropriation has been made for a purchase of service the identified potential providers become ineligible to be providers under section 42-2, 42-3, or 42-10 or become unwilling, unable, or unqualified to satisfactorily provide the desired services, the agency may expend the appropriated funds to provide the desired services through available means, including the purchase of services from providers not previously identified.

(d) This chapter shall be liberally construed to not hinder or impede the application, receipt, and use of federal-aid funds that may become available to the State. If federal-aid funds not already anticipated to be received and included in appropriations become available, each agency administering programs that could qualify for the available federal-aid funds, pursuant to chapter 29, may apply for, receive, and expend the federal-aid funds in accordance with the terms and conditions specified in the applicable federal statutes, regulations, or financial assistance award documents.”

SECTION 10. Chapter 42, Hawaii Revised Statutes, is amended by adding a new section to read:

“§42- Funding of grants or purchases of service. The legislature, if it deems necessary, may provide funding for an organization requesting a grant under a purchase of service agreement; provided that the grant being funded as a purchase of service shall meet purchase of service requirements as defined in section 41-1(8).”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 12. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 173

S.B. NO. 2212-84

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-1, Hawaii Revised Statutes, is amended to read:

“§321-1 General powers of the department. The department of health shall have general charge, oversight, and care of the health and lives of the people of the State. It shall have authority in matters of quarantine and other health matters and may declare and enforce quarantine when none exists and modify or release quarantine when it is established. When in the judgment of its director, there is deemed to be a potential health hazard, the department, through its director, may take precautionary measures to protect the public through the imposition of an embargo or the detention of products regulated by the department, or the removal of products regulated by the department from the market, or the declaration of quarantine; provided that the director must find evidence of a health hazard within seventy-two hours of the action taken or rescind the action. The director shall make public the findings. All county health authorities, sheriffs and police officers, and all other officers and employees of the State, and every county thereof, shall enforce the rules and regulations of the department. All such powers in health matters as have been or may be conferred upon any county shall be concurrent with those of the department. It shall make, through its director, an annual report to the governor, showing in detail all its expenditures and transactions, and such other information regarding the public health as it may deem of special interest.

The department shall also, during the prevalence of any severe pestilence or epidemic, publish a weekly report of the public health.”

SECTION 2. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

A Bill for an Act Relating to Payment of Wages to Relatives of Deceased Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 388-4, Hawaii Revised Statutes, is amended to read as follows:

"§388-4 Payment of wages to relatives of deceased employees. Where an employee dies leaving any wages, vacation, or sick leave pay due him, the employer shall, within thirty days after such death, whether or not a personal representative has been appointed, pay the wages, vacation, or sick leave pay in an amount not exceeding [\$1,000] \$2,000 to, and upon application by the surviving spouse or, if none, by an adult child. The employer shall require the applicant to show proof of his or her relationship to the deceased by affidavit and to acknowledge receipt of the payment in writing. Any such payment shall discharge the employer to the extent thereof and the employer shall not be liable to the decedent's estate. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

A Bill for an Act Relating to Abandoned Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 290-12, Hawaii Revised Statutes, is amended to read as follows:

"[] §290-12[] Leaving abandoned or derelict vehicles; petty misdemeanor. Whoever intentionally and knowingly leaves an abandoned vehicle, as defined in section 290-1, or a derelict vehicle, as defined in section 290-8, on any roadway, alley, street, way, lane, trail, bridge, or highway or other public property, or on private property without authorization of the owner or occupant, shall be guilty of a petty misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 176

H.B. NO. 2160-84

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-14(13)¹, Hawaii Revised Statutes, is amended to read as follows:

"§467-14 Revocation and suspension of licenses. The real estate commission may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for his services from both of such parties;
- (5) When licensee, being a real estate salesman, accepts any commission or other compensation for the performance of any of the acts hereinabove enumerated in the definition of real estate salesman from any person, copartnership, or corporation other than his employer or the broker with whom he associates or, being a real estate broker or salesman, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesman, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than his employer or the broker with whom he is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to

- actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
 - (11) When the licensee, being a real estate salesman, fails to file with the commission a written statement setting forth the name of the real estate broker by whom he is employed or with whom he is associated;
 - (12) Violating this chapter or the rules and regulations adopted pursuant thereto;
 - (13) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that a licensed broker may pay a commission to:
 - (A) a licensed broker of another state, territory, or possession of the United States; or
 - (B) a broker lawfully engaged in brokerage activity under the laws of a foreign country
 if such broker does not conduct in this State any of the negotiations for which a commission is paid;
 - (14) Commingling the money or other property of his principal with his own;
 - (15) Adjudicated insane or incompetent.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

Note

- 1. So in original.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 843, Hawaii Revised Statutes, is amended to read as follows:

**“CHAPTER 843
HAWAII [CRIME] CRIMINAL JUSTICE COMMISSION**

[§843-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

“Commission” means the Hawaii crime commission established by this chapter.

“Executive committee” means the executive committee of the Hawaii crime commission established by section 843-4.]

[§843-2] **§843-1 Hawaii [crime] criminal justice commission.** (a) Commencing on July 1, [1981,] 1985, there is established within the office of the lieutenant governor, for administrative purposes only, the Hawaii [crime] criminal justice commission. This commission shall have its existence terminated, if not renewed by the legislature, on June 30, [1984.] 1988.

For a twelve-month period commencing July 1, 1984, and ending on June 30, 1985, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor, for administrative purposes only.

(b) The commission shall be composed of nine members, all of whom shall be appointed by the governor, with the advice and consent of the senate. The term for each member shall be for four years. The governor shall appoint a [chairman] chairperson with the advice and consent of the senate. All vacancies on the commission shall be filled for the unexpired term by the governor, with the senate’s advice and consent. A vacancy in the [chairman’s] chairperson’s position shall be filled by the governor in the same manner as an initial appointment. The commission, by a two-thirds vote, may initiate the removal or suspension of the [chairman] chairperson from office, but only for neglect of duty, misconduct, or disability. The governor shall act upon the vote of the commission to remove or suspend the [chairman]. The chairman shall have the power to vote only in the event of a tie vote.

(c) Each nominee appointed by the governor shall undergo security screening by the attorney general. The attorney general shall obtain each nominee’s “criminal history record information,” as defined in section 846-1(3), and provide such information to the governor and the senate.] chairperson.

[(d)] (c) The members of the commission except the [chairman] chairperson shall not be compensated for their services but the members and the [chairman] chairperson shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

(c) The governor may remove or suspend for cause any member of the commission except the chairman after due notice and public hearing conducted under chapter 91.

(f) (d) The commission may receive and use gifts, money, services, or assistance from any federal, state, county, or private source for the implementation of the purposes of the Hawaii [crime] criminal justice commission.

[§843-3] §843-2 Hawaii [crime] criminal justice commission, [chairman,] chairperson, staff. The [chairman] chairperson shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission and shall authorize preliminary inquiry into [research, investigation incident to research, and other] its projects. The [chairman] chairperson shall be compensated at the rate of \$75 a day for each day's actual attendance at a meeting and each day during which [he] the chairperson spends four or more hours on commission business. There shall be such additional necessary staff to carry out the functions of the commission, who shall be hired by and serve at the pleasure of the [chairman] chairperson without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees. This provision shall not affect the right of the [chairman] chairperson or commission to contract independently for services.

[§843-4 Committees. (a) There shall be an executive committee of the commission which shall consist of two persons who shall be elected by the commission from among its members. It shall include, in addition, the chairman of the commission, and shall develop and identify general areas for commission study and review, and generally direct the work and activities of the commission.

(b) There shall be, in addition, other special and standing committees of the commission which shall address specific areas or tasks as assigned by the executive committee or by other agreement of the commission.]

[§843-5] §843-3 Commission, functions. The commission shall have the following functions and shall perform the following duties:

- (1) Research and collect information regarding crime in Hawaii;
- (2) Investigate incident to research in order to study crime, criminal activity, and the operation of the criminal justice system;
- (3) Evaluate and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws;

- (5) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
 - (6) Develop, recommend, and where appropriate, implement programs of public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid the occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
 - (7) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business and other white collar crimes, and criminal activity;
 - (8) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
 - (9) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
 - (10) Hold public and closed hearings;
 - (11) Receive, manage, and tender funds for rewards for apprehension and conviction of criminals; and
 - (12) Perform other functions and duties necessary to carry out the procedures established in section 843-6.]
- (1) Research, evaluate, and make recommendations regarding the criminal justice system; and
 - (2) Develop, recommend, and implement public education programs relating to the criminal justice system.

[§843-6] §843-4 Conduct of business, procedures. (a) Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall possess all powers conferred under such chapters, including the power to subpoena as set forth in subsection (c).

(b) The commission may hold closed hearings when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system; provided that all other meetings or hearings shall be otherwise conducted in accordance with chapters 91 and 92.

(c) In performing the functions and duties under this chapter, the commission is empowered to subpoena witnesses as allowed by rules of court upon subpoena signed by the [chairman] chairperson or acting [chairman.] chairperson. The subpoena pursuant to section 92-16 shall be served in the same

manner, and the witnesses subpoenaed shall be entitled to the same witness fees, as in the case of a witness subpoenaed to testify before a circuit court. Any circuit court upon the written application of the [chairman] chairperson or acting [chairman] chairperson of the commission shall have power to enforce obedience to the subpoena by contempt proceedings. The [chairman] chairperson or acting [chairman] chairperson may administer oaths to witnesses and require the testimony of such witnesses on matters germane to the subject under inquiry at the hearing. Any party to the hearing upon request shall be allowed to be represented by counsel and be allowed reasonable rights of examination and cross-examination of witnesses. Any false swearing by a witness at the hearing upon any material issue or matter shall constitute perjury, and be punishable as such.

(d) Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties.

[§843-7] **§843-5 Rules.** The commission may adopt, amend, or repeal rules it deems necessary for the performance of its functions and the implementation of the intent of this chapter. The rules shall be adopted in accordance with chapter 91.

[§843-8] **§843-6 Unauthorized disclosure; penalty.** Any commission member, except the [chairman,] chairperson, staff member, or employee who, without authorization of the commission, discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be removed from the commission upon a finding by the majority vote of the commission members that [he] the commission member has made an unauthorized disclosure. Any commission member, including the [chairman,] chairperson, staff member, or employee who, without authorization of the commission, wilfully discloses or disseminates any confidential information or matter acquired by the commission during the course of any study or investigation shall be guilty of a [Class] class C felony and shall be removed, section [843-2(b)] 843-1(b) to the contrary notwithstanding in the case of the [chairman,] chairperson, or terminated in employment, as the case may be, in accordance with this section.

As used in this section, "confidential information or matter" means information or matter, the release of which constitutes a violation of the right of privacy, information or matter, the release of which would result in substantial detriment to the effectiveness of the commission or to its ability to secure information necessary to the performance of its functions, or information or matter, the release of which may endanger or otherwise compromise or prejudice the rights, interests, safety, or privacy of any person who has assisted the commission in its work."

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

"§103-3 Employment of attorneys. No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii [crime] criminal justice commission;
- (7) To grand jury counsel;
- (8) To the office of Hawaiian affairs;
- (9) To the department of commerce and consumer affairs; provided that such attorney shall be responsible for the prosecution of consumer complaints[.]; and
- (10) In the event the attorney general, for reasons deemed by [him] the attorney general good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii [crime] criminal justice commission or as a grand jury counsel, or the department of commerce and consumer affairs in prosecution of consumer complaints, shall become a deputy attorney general."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$302,000 for fiscal year 1984-85, or so much thereof as may be necessary for the purposes of this Act. The sum appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

A Bill for an Act Relating to Place to Keep Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-6, Hawaii Revised Statutes, is amended to read as follows:

"§134-6 Place to keep firearms; loaded firearms, when prohibited. Except as provided in sections 134-5 and 134-9, the possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, but it shall be lawful to carry unloaded firearms or ammunition, or both, in [a wrapper or other suitable container] an enclosed container from the place of purchase to the purchaser's [home,] residence, place of business, or place of sojourn, or between these places upon change of place of business, [abode, or] sojourn, or residence, or between these places and a place of repair or a target range. "Enclosed container" means a rigidly constructed receptacle or a commercially manufactured gun case or the equivalent thereof, that completely encloses the firearm.

It shall be unlawful for any person to carry on his person, or to have in his possession, or to carry in a vehicle on any public highway any firearm loaded with ammunition; provided that the provisions of this paragraph shall not apply to any person who has in his possession or carries a pistol or revolver and ammunition therefor in accordance with a license or permit issued, as provided in [section] sections 134-9 and 134-5.

[Any person who violates any provision of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.] Any person violating the provisions of this section by carrying or possessing a loaded firearm, or by carrying or possessing a pistol or revolver, loaded or unloaded, without a permit issued as provided in section 134-9, shall be guilty of a class C felony.

Any person violating this section by carrying or possessing an unloaded firearm, other than a pistol or revolver, shall be guilty of a misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

A Bill for an Act Relating to Travel Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 468K-3, Hawaii Revised Statutes, is amended to read as follows:

“§468K-3 Travel agency recovery fund; use of fund; fees. The director shall establish and maintain a travel agency recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a registered travel agency or registered sales representative, that is in violation of this chapter[,] or rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$8,000 for damages sustained as a result of the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

For purposes of this chapter, “person aggrieved” means and is limited to individuals who have sustained damages as a result of the act, representation, transaction, or conduct of a duly registered travel agency or registered sales representative.

Every travel agency shall pay at the time of original registration a non-refundable fee of \$50 for deposit in the travel agency recovery fund.

Every sales representative shall pay at the time of original registration a non-refundable fee of \$25 for deposit in the travel agency recovery fund.”

SECTION 2. Section 468K-5, Hawaii Revised Statutes, is amended to read as follows:

“§468K-5 Statute of limitations; recovery from fund. (a) No action for a judgment which may subsequently result in an order for collection from the travel agency recovery fund shall be commenced later than six years from the accrual of the cause of action [thereon]. When any aggrieved person commences action for a judgment which may result in collection from the travel agency recovery fund, the aggrieved person shall notify the director in writing to this effect at the time of the commencement of such action. The director shall have the right to intervene in and defend any such action.

(b) When any aggrieved person recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any travel agency or sales representative for such act, representation, transaction, or conduct which is in violation of this chapter or its adopted rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, which occurred after January 1, 1981, the aggrieved person may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was

entered and, upon ten days' written notice to the director, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section.

(c) The court shall proceed upon such application in a summary manner, and, upon the hearing [thereof,] of the application, the aggrieved person shall be required to show:

- (1) He or she is not a spouse of the judgment debtor, or the personal representative of such spouse.
- (2) He or she has complied with all the requirements of this section.
- (3) He or she has obtained a judgment as set out in subsection (b) [of this section], stating the amount [thereof] of the judgment and the amount owing [thereon] on the judgment at the date of the application.
- (4) He or she has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.
- (5) That by such search he or she has discovered no personal or real property or other assets liable to be sold or applied, or that he or she has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he or she has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(d) The court shall make an order directed to the director requiring payment from the travel agency recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the aggrieved person by subsection (c) [of this section] and that the aggrieved person has fully pursued and exhausted all remedies available to the aggrieved person for recovering the amount awarded by the judgment of the court.

(e) Should the director pay from the travel agency recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a registered travel agency or sales representative, registration shall be automatically terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund. No such travel agency or sales representative shall be eligible to re-register to do business until the fund is repaid in full, plus interest at the rate of ten per cent a year, the amount paid from the travel agency

recovery fund on the account of the travel agency or sales representative. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(f) If, at any time, the money deposited in the travel agency recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the director shall, when sufficient money has been deposited in the travel agency recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1984.)

ACT 180

S.B. NO. 1509-84

A Bill for an Act Relating to the Compensation of Certain Persons

Under the Criminal Injuries Compensation Act and Providing Appropriations therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act:

Case No. 73-94	5,000.00
Case No. 80-324	2,000.00
Case No. 80-326	250.00
Case No. 80-445	453.24
Case No. 81-56	1,911.42
Case No. 81-175	215.41
Case No. 81-178	1,500.00
Case No. 81-182	1,590.66
Case No. 81-221	381.17
Case No. 81-222	22.08
Case No. 81-222 (Hilo Hospital)	1,226.00
Case No. 81-222 (Dr. Frank Hammer, Jr.)	112.32
Case No. 81-222 (Dr. Robert Irvine)	361.50
Case No. 81-222 (Lucy Henriques, Medical Center)	242.75
Case No. 81-222 (Clinical Laboratories of Hawaii, Inc.)	72.64
Case No. 81-273	50.00

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Case No. 81-273 (Hilo Hospital)	103.90
Case No. 81-273 (Hawaii Emergency Physicians Associated, Inc.)	67.70
Case No. 81-291	150.00
Case No. 81-346	491.67
Case No. 81-347	50.00
Case No. 81-357	382.00
Case No. 81-370	151.92
Case No. 81-370 (Kaiser Medical Center)	149.80
Case No. 81-384	471.65
Case No. 81-438	1,000.00
Case No. 81-438 (Dr. Joseph Chang)	1,000.00
Case No. 82-36	159.28
Case No. 82-39	50.00
Case No. 82-76	711.31
Case No. 82-104	1,500.00
Case No. 82-122	252.50
Case No. 82-123	373.95
Case No. 82-124	1,800.00
Case No. 82-148	300.00
Case No. 82-155	1,000.00
Case No. 82-155 (Queen's Medical Center)	438.00
Case No. 82-163 (Queen's Medical Center)	214.50
Case No. 82-205	1,301.80
Case No. 82-205 (Straub Clinic & Hospital, Inc.)	2,305.23
Case No. 82-210	1,320.01
Case No. 82-224	1,000.00
Case No. 82-280	1,800.00
Case No. 82-298	300.00
Case No. 82-305	855.00
Case No. 82-305 (Dr. Robert Nowaki)	685.00
Case No. 82-305 (Dr. Samuel Haraguchi)	20.00
Case No. 82-309	1,000.00
Case No. 82-311	300.00
Case No. 82-321	3,616.60
Case No. 82-326	1,346.00
Case No. 82-327 (Pearlridge Hospital)	122.25
Case No. 82-327 (State of Hawaii Emergency Ambulance Service)	110.00
Case No. 82-328	1,566.30
Case No. 82-328 (Dr. Michael Jones)	425.76
Case No. 82-330	1,800.00
Case No. 82-333	1,515.60
Case No. 82-338	2,805.50

Case No. 82-357	1,623.25
Case No. 82-358	629.56
Case No. 82-360	1,200.00
Case No. 82-363	750.00
Case No. 82-368	200.00
Case No. 82-369	100.00
Case No. 82-370	750.00
Case No. 82-376	1,200.00
Case No. 82-378	4,218.51
Case No. 82-378 (Queen's Medical Center)	344.00
Case No. 82-378 (Rehabilitation Hospital of the Pacific)	2,301.74
Case No. 82-378 (Dr. David Lee Pang)	1,632.80
Case No. 82-378 (Dr. John Edwards)	1,137.95
Case No. 82-378 (Dr. James Denny)	365.00
Case No. 82-379	1,730.50
Case No. 82-380	820.00
Case No. 82-385	250.00
Case No. 82-385 (North Shore Clinic, Inc.)	35.05
Case No. 82-385 (Waianae Comprehensive Health Center)	382.10
Case No. 82-386	360.00
Case No. 82-386 (Kau Hospital)	814.68
Case No. 82-386 (Hilo Medical Group, Inc.)	277.99
Case No. 82-386 (Hilo Radiologic Associates, Inc.)	97.76
Case No. 82-386 (Clinical Laboratories of Hawaii, Inc.)	31.88
Case No. 82-388	5,000.00
Case No. 82-391	1,500.00
Case No. 82-392	3,461.41
Case No. 82-396	1,000.00
Case No. 82-397	1,500.00
Case No. 82-399	1,500.00
Case No. 82-400	339.94
Case No. 82-402	382.80
Case No. 82-403	700.00
Case No. 82-404	2,052.18
Case No. 82-405	750.00
Case No. 82-406	1,087.11
Case No. 82-407	100.00
Case No. 82-407 (Kaiser Medical Center)	382.20
Case No. 82-408	172.60
Case No. 82-410	7,125.88
Case No. 82-411	700.00
Case No. 82-413	618.79

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Case No. 82-413 (Queen's Medical Center)	977.30
Case No. 82-416	1,179.34
Case No. 82-417	250.00
Case No. 82-420	668.41
Case No. 82-420 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 82-421	2,312.66
Case No. 82-421 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 82-422	1,032.33
Case No. 82-423	50.00
Case No. 82-423 (Kona Hospital)	282.00
Case No. 82-423 (West Hawaii Imaging Services, Inc.)	112.00
Case No. 82-423 (Dr. Jeffrey McDevitt)	23.09
Case No. 82-423 (Dr. Minolu Cheng)	78.00
Case No. 82-424	1,500.00
Case No. 82-425	2,331.08
Case No. 82-426	895.41
Case No. 82-427	312.66
Case No. 82-428	750.00
Case No. 82-429	300.00
Case No. 82-429 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 82-430	583.20
Case No. 82-430 (Oral Surgery Group)	858.00
Case No. 82-432	512.80
Case No. 82-435	300.00
Case No. 82-436	750.00
Case No. 82-441	250.00
Case No. 82-441 (Kohala Hospital)	298.00
Case No. 82-441 (Dr. John Turner)	166.40
Case No. 82-442	212.05
Case No. 82-442 (Plastic Surgery Hawaii, Ltd.)	525.50
Case No. 82-442 (Dr. Takeshi Kishida)	150.35
Case No. 82-444	250.00
Case No. 82-444 (St. Francis Hospital)	299.06
Case No. 82-445	2,056.25
Case No. 82-447	2,000.00
Case No. 82-448	558.42
Case No. 82-449	270.00
Case No. 82-450	1,764.48
Case No. 82-451	360.68
Case No. 82-452	291.60
Case No. 82-453	404.62
Case No. 82-454	325.00

Case No. 82-454 (Straub Clinic & Hospital, Inc.)	1,579.32
Case No. 82-455	100.00
Case No. 82-457	505.00
Case No. 82-457 (Borthwick Mortuary, Ltd.)	498.00
Case No. 82-458	300.00
Case No. 82-459	550.62
Case No. 82-459 (James A. Pflaster - Attorney's Fees)	25.00
Case No. 82-460	1,303.92
Case No. 82-462	814.26
Case No. 83-2	200.00
Case No. 83-3	231.00
Case No. 83-4	146.82
Case No. 83-6	50.00
Case No. 83-7	750.00
Case No. 83-7 (Wahiawa General Hospital)	45.00
Case No. 83-7 (Haleiwa Medical Clinic, Inc.)	26.00
Case No. 83-8	807.60
Case No. 83-8 (Dr. Don Parsa)	1,248.00
Case No. 83-9	883.54
Case No. 83-10	100.00
Case No. 83-10 (Straub Clinic & Hospital, Inc.)	254.39
Case No. 83-11	277.47
Case No. 83-12	9,850.00
Case No. 83-12 (Thomas J. Carney, Jr. - Attorney's Fees)	150.00
Case No. 83-13 (Kona Hospital)	248.50
Case No. 83-13 (West Hawaii Imaging Services, Inc.)	60.00
Case No. 83-13 (Islands Emergency Medical Services, Inc.)	35.00
Case No. 83-15	25.00
Case No. 83-17	150.00
Case No. 83-17 (Kaiser Medical Center)	117.00
Case No. 83-18	135.36
Case No. 83-19	495.76
Case No. 83-19 (Queen's Medical Center)	184.70
Case No. 83-19 (The Emergency Group, Inc.)	227.24
Case No. 83-19 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-20	2,058.00
Case No. 83-21	1,500.00
Case No. 83-24	750.00
Case No. 83-25	200.00
Case No. 83-25 (Queen's Medical Center)	99.65
Case No. 83-26	100.00
Case No. 83-27	100.00

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Case No. 83-30	100.00
Case No. 83-31	350.00
Case No. 83-33	392.60
Case No. 83-34	1,500.00
Case No. 83-35	150.00
Case No. 83-36	100.00
Case No. 83-36 (Hilo Hospital)	169.95
Case No. 83-36 (Hawaii Emergency Physicians Associated, Inc.)	78.12
Case No. 83-36 (Dr. Hoon Park)	22.46
Case No. 83-36 (Hilo Radiologic Associated, Ltd.)	50.75
Case No. 83-37	1,645.00
Case No. 83-38	500.00
Case No. 83-39	350.00
Case No. 83-40	500.00
Case No. 83-41	150.00
Case No. 83-46	38.81
Case No. 83-46 (Straub Clinic & Hospital, Inc.)	470.34
Case No. 83-46 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-47	100.00
Case No. 83-49	250.00
Case No. 83-49 (Straub Clinic & Hospital, Inc.)	1,167.85
Case No. 83-50 (G. N. Wilcox Memorial Hospital & Health Center)	430.25
Case No. 83-50 (Radiology Associates, Inc.)	33.80
Case No. 83-50 (Dr. Ernest Orinion)	71.76
Case No. 83-51	399.63
Case No. 83-51 (Kuakini Medical Center)	82.35
Case No. 83-51 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-51 (Islands Emergency Medical Service, Inc.)	74.00
Case No. 83-53	1,080.00
Case No. 83-54	600.00
Case No. 83-54 (Queen's Medical Center)	122.25
Case No. 83-55	205.00
Case No. 83-56	750.00
Case No. 83-57	6,970.00
Case No. 83-57 (Queen's Medical Center)	863.27
Case No. 83-57 (Dr. Collin Dang)	163.10
Case No. 83-58	200.00
Case No. 83-59	150.00
Case No. 83-60	143.61
Case No. 83-61	250.00
Case No. 83-62	1,891.00

Case No. 83-63	1,718.60
Case No. 83-63 (Kahuku Hospital)	219.50
Case No. 83-63 (Dr. Glenn Vanstrum)	78.00
Case No. 83-63 (North Shore Clinic)	219.24
Case No. 83-63 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-64	500.00
Case No. 83-65	750.00
Case No. 83-67	250.00
Case No. 83-67 (Dr. J. Robert Foote, Jr.)	750.88
Case No. 83-68	500.00
Case No. 83-69	575.00
Case No. 83-70	500.00
Case No. 83-74	100.00
Case No. 83-77	200.00
Case No. 83-78	765.00
Case No. 83-79	25.00
Case No. 83-80	500.00
Case No. 83-81	2,260.12
Case No. 83-84	815.77
Case No. 83-84 (St. Francis Hospital)	241.25
Case No. 83-85	659.20
Case No. 83-86	77.86
Case No. 83-88	322.71
Case No. 83-89	880.31
Case No. 83-92	116.78
Case No. 83-94	1,094.75
Case No. 83-94 (Plastic Surgery of Hawaii, Ltd.)	759.45
Case No. 83-94 (Kuakini Medical Center)	71.10
Case No. 83-94 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-95	557.68
Case No. 83-96	300.00
Case No. 83-96 (Kaiser Medical Center)	27.00
Case No. 83-96 (Dr. James Taketa)	261.00
Case No. 83-99	750.00
Case No. 83-101	776.70
Case No. 83-101 (Wahiawa General Hospital)	262.70
Case No. 83-101 (Dr. Salvador Cecilio)	115.20
Case No. 83-101 (Medical Arts Clinic)	82.00
Case No. 83-101 (Leeward Chiropractic Center, Inc.)	105.00
Case No. 83-102	150.00
Case No. 83-102 (Queen's Medical Center)	95.05
Case No. 83-102 (The Emergency Group, Inc.)	149.76

Case No. 83-103	568.64
Case No. 83-105	500.00
Case No. 83-105 (Queen's Medical Center)	376.00
Case No. 83-105 (Dr. Clinton Cho)	210.00
Case No. 83-106	217.11
Case No. 83-107	359.14
Case No. 83-109	750.00
Case No. 83-112	837.94
Case No. 83-113	1,215.03
Case No. 83-114	204.50
Case No. 83-114 (Kuakini Medical Center)	876.05
Case No. 83-114 (Plastic Surgery Hawaii, Ltd.)	1,596.95
Case No. 83-114 (Kahuku Hospital)	396.00
Case No. 83-114 (International Life Support, Inc.)	300.50
Case No. 83-114 (Kuakini Radiology Group, Inc.)	81.78
Case No. 83-114 (Radiology Associates, Inc.)	40.44
Case No. 83-115	1,335.20
Case No. 83-115 (Wahiawa General Hospital)	914.93
Case No. 83-115 (Dr. Gildo Soriano)	267.52
Case No. 83-121	105.87
Case No. 83-121 (G. N. Wilcox Memorial Hospital & Health Center)	60.00
Case No. 83-121 (Waimea Clinic, Inc.)	134.90
Case No. 83-121 (Kauai Medical Group, Inc.)	44.45
Case No. 83-125	250.00
Case No. 83-128	447.50
Case No. 83-129	200.00
Case No. 83-129 (Medi-Mart Waikiki, Inc.)	29.54
Case No. 83-132	100.00
Case No. 83-133	750.00
Case No. 83-135	1,107.81
Case No. 83-136	99.40
Case No. 83-137	2,767.27
Case No. 83-138	466.00
Case No. 83-139	1,784.23
Case No. 83-140	100.00
Case No. 83-140 (Straub Clinic & Hospital, Inc.)	264.58
Case No. 83-141	115.00
Case No. 83-142	105.00
Case No. 83-143	150.00
Case No. 83-143 (Queen's Medical Center)	210.80
Case No. 83-143 (The Emergency Group, Inc.)	87.90

Case No. 83-143 (The Fronk Clinic)	29.62
Case No. 83-143 (Radiology Associates, Inc.)	63.44
Case No. 83-143 (Emergency Ambulance Service, Department of Health, State of Hawaii)	110.00
Case No. 83-144	895.84
Case No. 83-146	257.47
Case No. 83-149	500.00
Case No. 83-149 (St. Francis Hospital)	1,540.47
Case No. 83-149 (Dr. Meredith Pang)	540.60
Case No. 83-149 (Dr. Michael Maung)	274.56
Case No. 83-149 (Dr. Ben Kawasaki)	158.00
Case No. 83-149 (Dr. Kenneth Ing)	21.95
Case No. 83-150	346.66
Case No. 83-151	431.47
Case No. 83-152	136.40
Case No. 83-153 (Hawaii Emergency Physicians Associated, Inc.)	390.60
Case No. 83-153 (Medical Arts Clinic, Inc.)	247.31
Case No. 83-153 (The Radiology Group, Inc.)	26.00
Case No. 83-154 (St. Francis Hospital)	116.21
Case No. 83-154 (Dr. C. V. Caver)	571.76
Case No. 83-154 (The Emergency Group, Inc.)	62.40
Case No. 83-154 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-154 (Queen's Medical Center)	120.60
Case No. 83-157 (Dr. David Johnson)	260.00
Case No. 83-158	500.00
Case No. 83-159	250.00
Case No. 83-160	329.00
Case No. 83-161	1,500.00
Case No. 83-162	500.00
Case No. 83-166	852.63
Case No. 83-167	436.68
Case No. 83-168	213.61
Case No. 83-169	367.88
Case No. 83-169 (Kuakini Medical Center)	35.00
Case No. 83-170	350.00
Case No. 83-172	765.77
Case No. 83-173	500.00
Case No. 83-174 (G. N. Wilcox Memorial Hospital & Health Center)	170.20
Case No. 83-174 (Kalaheo Clinic)	52.08
Case No. 83-175	1,177.59
Case No. 83-176	750.00

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Case No. 83-180	750.00
Case No. 83-182	764.40
Case No. 83-183	1,038.90
Case No. 83-183 (Dr. George Moed)	1,133.60
Case No. 83-185	500.00
Case No. 83-186	500.00
Case No. 83-187	150.00
Case No. 83-188	250.00
Case No. 83-188 (Queen's Medical Center)	221.10
Case No. 83-188 (St. Francis Hospital)	417.35
Case No. 83-188 (The Emergency Group, Inc.)	62.40
Case No. 83-190	300.00
Case No. 83-190 (G. N. Wilcox Memorial Hospital & Health Center)	1,175.79
Case No. 83-190 (Kauai Medical Group)	344.35
Case No. 83-191	300.00
Case No. 83-191 (Wahiawa General Hospital)	204.65
Case No. 83-191 (Hawaii Emergency Physicians Associated, Inc.)	306.44
Case No. 83-192	1,517.20
Case No. 83-193	3,525.62
Case No. 83-194	535.06
Case No. 83-194 (Queen's Medical Center)	107.00
Case No. 83-194 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-195	1,000.00
Case No. 83-196	100.00
Case No. 83-197	325.51
Case No. 83-198	350.50
Case No. 83-199	300.00
Case No. 83-200	500.00
Case No. 83-201	732.78
Case No. 83-202	701.80
Case No. 83-203	1,555.32
Case No. 83-204	360.00
Case No. 83-207	250.00
Case No. 83-207 (Hilo Hospital)	23.20
Case No. 83-207 (Hilo Radiologic Associates, Ltd.)	69.89
Case No. 83-209	150.00
Case No. 83-209 (Kauai Medical Group)	72.00
Case No. 83-210	1,575.67
Case No. 83-211	2,193.61
Case No. 83-212	250.00
Case No. 83-213	250.00

Case No. 83-214	250.00
Case No. 83-215	350.00
Case No. 83-215 (Dr. Joseph Chang)	650.00
Case No. 83-218	150.00
Case No. 83-218 (Straub Clinic & Hospital, Inc.)	279.12
Case No. 83-219	100.00
Case No. 83-219 (Hilo Hospital)	140.15
Case No. 83-219 (Hawaii Emergency Physicians Associated, Inc.)	191.61
Case No. 83-219 (Hilo Radiologic Associates, Ltd.)	16.38
Case No. 83-222	150.00
Case No. 83-223	750.00
Case No. 83-224 (Straub Clinic & Hospital, Inc.)	410.12
Case No. 83-226	200.00
Case No. 83-228	909.00
Case No. 83-230	2,000.00
Case No. 83-231	280.00
Case No. 83-232	587.00
Case No. 83-232 (Queen's Medical Center)	581.35
Case No. 83-232 (The Honolulu Medical Group, Inc.)	439.82
Case No. 83-232 (Dr. Kevin Woolley)	193.04
Case No. 83-232 (Radiology Associates, Inc.)	29.12
Case No. 83-237	750.00
Case No. 83-239	150.00
Case No. 83-239 (Straub Clinic & Hospital, Inc.)	809.87
Case No. 83-240	698.07
Case No. 83-241 (G. N. Wilcox Memorial Hospital & Health Center)	225.05
Case No. 83-244	733.49
Case No. 83-245	2,354.00
Case No. 83-246	1,200.00
Case No. 83-246 (Allen Williams - Attorney's Fees)	50.00
Case No. 83-247	1,800.00
Case No. 83-248	1,200.00
Case No. 83-249	1,103.00
Case No. 83-249 (Kona Hospital)	317.35
Case No. 83-249 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-249 (Clinical Laboratories of Hawaii, Inc.)	124.69
Case No. 83-249 (Dr. Lawrence Peebles)	44.30
Case No. 83-250	200.00
Case No. 83-251	750.00
Case No. 83-253	333.74
Case No. 83-253 (Hilo Hospital)	179.95

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Case No. 83-253 (Hawaii Emergency Physicians Associated, Inc.)	120.99
Case No. 83-253 (Dr. John Paopao)	1,019.60
Case No. 83-253 (Hilo Radiologic Associates, Ltd.)	20.00
Case No. 83-254	350.00
Case No. 83-255	144.32
Case No. 83-256	3,678.90
Case No. 83-258	750.00
Case No. 83-258 (Queen's Medical Center)	2,939.00
Case No. 83-258 (Dr. Rolland Nakashima)	1,917.50
Case No. 83-258 (Dr. Werner Grebe)	203.63
Case No. 83-261	278.00
Case No. 83-262	755.00
Case No. 83-263	200.00
Case No. 83-264	835.08
Case No. 83-264 (Dr. Robert Look)	303.45
Case No. 83-269	100.00
Case No. 83-270	100.00
Case No. 83-272	300.00
Case No. 83-272 (Maui Memorial Hospital)	387.91
Case No. 83-272 (Dr. John F. Mills)	201.86
Case No. 83-272 (Maui Radiology Consultants)	91.00
Case No. 83-272 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-274	750.00
Case No. 83-275	179.63
Case No. 83-276	2,500.00
Case No. 83-277	100.00
Case No. 83-280	450.56
Case No. 83-282	500.00
Case No. 83-284	377.00
Case No. 83-286	666.62
Case No. 83-290	500.00
Case No. 83-291	750.00
Case No. 83-293	252.92
Case No. 83-293 (Momyer Chiropractic Office)	1,178.54
Case No. 83-295	1,771.00
Case No. 83-296	100.00
Case No. 83-298	750.00
Case No. 83-300	285.28
Case No. 83-301	750.00
Case No. 83-302	14.83
Case No. 83-302 (The Honolulu Medical Group, Inc.)	179.75
Case No. 83-302 (The Emergency Group, Inc.)	13.13

Case No. 83-304	100.00
Case No. 83-305	125.00
Case No. 83-306	218.94
Case No. 83-307	300.00
Case No. 83-307 (Queen's Medical Center)	202.75
Case No. 83-307 (The Emergency Group, Inc.)	104.00
Case No. 83-312	488.98
Case No. 83-313	132.00
Case No. 83-315	122.50
Case No. 83-316	100.00
Case No. 83-316 (Queen's Medical Center)	38.50
Case No. 83-320	100.00
Case No. 83-321	500.00
Case No. 83-323	2,770.63
Case No. 83-325	30.00
Case No. 83-325 (Kuakini Medical Center)	2,527.80
Case No. 83-325 (Plastic Surgery Hawaii, Ltd.)	2,683.80
Case No. 83-325 (Anesthesia Associates, Inc.)	494.00
Case No. 83-325 (Radiology Associates, Inc.)	33.28
Case No. 83-325 (Queen's Medical Center)	125.30
Case No. 83-329	610.54
Case No. 83-331	325.00
Case No. 83-333	2,149.54
Case No. 83-333 (Queen's Medical Center)	4,737.76
Case No. 83-333 (Dr. George Nip)	1,023.36
Case No. 83-337	586.90
Case No. 83-339	2,015.00
Case No. 83-339 (Lenore Peterson)	60.00
Case No. 83-340	400.00
Case No. 83-341	250.00
Case No. 83-342	1,500.00
Case No. 83-343	358.40
Case No. 83-343 (Queen's Medical Center)	113.30
Case No. 83-343 (The Emergency Group, Inc.)	392.08
Case No. 83-343 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-347	859.77
Case No. 83-348	100.00
Case No. 83-350	1,500.00
Case No. 83-351	300.00
Case No. 83-352	500.00
Case No. 83-354	285.60
Case No. 83-355	750.00

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Case No. 83-355 (Queen's Medical Center)	73.00
Case No. 83-356	400.00
Case No. 83-357	562.50
Case No. 83-360	1,136.54
Case No. 83-362	274.50
Case No. 83-365	1,835.00
Case No. 83-367	1,130.40
Case No. 83-369	750.00
Case No. 83-372	200.00
Case No. 83-372 (Queen's Medical Center)	125.00
Case No. 83-373 (O. A. Ohlson, D. C.)	1,682.93
Case No. 83-377	392.37
Case No. 83-378	548.60
Case No. 83-378 (Robert Goldberg - Attorney's Fees)	25.00
Case No. 83-380	1,000.00
Case No. 83-382	1,000.00
Case No. 83-385	934.96
Case No. 83-386	5,106.87
Case No. 83-387 (Maui Memorial Hospital)	506.91
Case No. 83-387 (Dr. Stephen Schlesinger)	1,302.07
Case No. 83-387 (Dr. Frederick Burkle)	52.10
Case No. 83-387 (Dr. K. B. McCollum)	310.96
Case No. 83-387 (Dr. William Perryman)	61.36
Case No. 83-387 (Maui Radiology Consultants)	30.30
Case No. 83-390	750.00
Case No. 83-391	300.00
Case No. 83-393	309.05
Case No. 83-394	300.00
Case No. 83-395	47.25
Case No. 83-395 (Kauai Veterans Hospital)	188.30
Case No. 83-395 (Waimea Clinic, Inc.)	92.20
Case No. 83-396	375.84
Case No. 83-397	200.00
Case No. 83-397 (Kaiser Medical Center)	267.00
Case No. 83-399	1,517.14
Case No. 83-401	1,007.91
Case No. 83-402	500.00
Case No. 83-405	119.00
Case No. 83-407	100.00
Case No. 83-409	464.77
Case No. 83-410	45.13
Case No. 83-416	1,500.00

Case No. 83-417	233.31
Case No. 83-420	750.00
Case No. 83-421	566.71
Case No. 83-426	1,909.32
Case No. 83-427	150.00
Case No. 83-427 (Dr. Randall Honda)	280.00
Case No. 83-427 (State of Hawaii Emergency Ambulance Service)	125.00
Case No. 83-428	1,800.00
Case No. 83-430	506.60
Case No. 83-431	50.00
Case No. 83-432	1,073.34
Case No. 83-435	813.38
Case No. 83-441	500.00
Case No. 83-441 (Queen's Medical Center)	1,048.00
Case No. 83-441 (Dr. John W. Henrickson)	258.10
Case No. 83-441 (Dr. Maxwell A. Cooper)	480.48
Case No. 83-441 (The Emergency Group, Inc.)	104.00
Case No. 83-441 (Radiology Associates, Inc.)	193.44
Case No. 83-445	112.18
Case No. 83-453	2,913.82
Case No. 83-453 (Dr. K. C. Yeung)	127.35
Case No. 83-453 (Straub Clinic & Hospital, Inc.)	430.72
Case No. 83-455	1,328.27
Case No. 83-468	500.00
Case No. 83-469	207.61
Case No. 83-471	1,358.00
Case No. 83-474	250.00
Case No. 83-477	500.00
Case No. 83-477 (Endodontic Associates, Inc.)	46.80
Case No. 83-484	50.00
Case No. 83-487	100.00
Case No. 83-489	300.00

SECTION 2. The additional sum of \$2,429.74 shall be appropriated out of the general revenues of the State to compensate a victim (Case No. 79-160) who was awarded compensation in 1980.

SECTION 3. The sums appropriated in Sections 1 and 2 of this Act shall be deposited into the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by this Act, as of the close of business on June 30, 1985, shall lapse into the general fund of the State.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 181

S.B. NO. 1702-84

A Bill for an Act Relating to Motor Vehicles Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. One of the primary means of enforcing the compulsory insurance requirements of the Hawaii no-fault law is the requirement that the no-fault card be shown when a motorist is stopped by a police officer. This means of enforcement is frustrated when a person purchases coverage for a stated period, obtains the no-fault identification card showing coverage for the period, and subsequently cancels the policy or has the policy terminated by failing to pay premiums. While the policy may no longer be in effect, the motorist still has the card showing the alleged coverage. Currently, the only enforcement mechanism against this practice is the criminal prosecution of persons who fraudulently use or display no-fault identification cards knowing that the policy has been canceled. Depending upon the amount of the fine imposed, it may be cheaper to pay the fine for the fraudulent use of the card than to pay the no-fault premiums. Accordingly, it is the purpose of this Act to remedy this problem by:

- (1) Requiring persons who are applying for the first time with an insurer to be issued a no-fault identification card for a period not to exceed the period for which premiums have been paid or earned;
- (2) Requiring that when a no-fault policy is canceled before the end of the policy period, the insured shall return the no-fault identification card to the insurer;
- (3) Providing civil sanctions against fraudulent card users which will give insurance companies an incentive to assist law enforcement agencies in working against the problem; and
- (4) Taking the "profit" out of the fraudulent use of cards by making the fraudulent use more expensive than the payment of premiums.

SECTION 2. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§294- Use of no-fault identification card after cancellation of policy; civil sanctions. (a) When a no-fault policy is canceled before the end of the policy period, the insured shall return either the no-fault identification card for the policy or if the card is lost or stolen, an affidavit signed by the insured stating that fact to the insurer within thirty days after being notified of the

cancellation. The insurer's notice of cancellation shall include the reason for the cancellation and a statement of actions which may be taken under this section if the card is not returned. If the card or affidavit is not returned within the period specified, the insurer may:

- (1) If the premiums for the period shown on the no-fault identification card have been prepaid, withhold the unearned portions of the premiums until the identification card or an affidavit signed by the insured has been returned. In addition, all premiums shall be considered "earned" until the card is returned.
- (2) If the premiums for the period shown on the identification card have not been paid in full, bring a civil action for three times the unpaid portion of the premiums. Notwithstanding sections 607-14 and 607-17, the insurer shall be awarded reasonable attorneys' fees and court costs. If the no-fault identification card is returned after the civil action is filed but before the matter is taken to trial, the insurer shall be awarded damages of not less than \$100, but not more than the amount of the unpaid premiums together with reasonable attorneys' fees and costs as provided in this section.

Notwithstanding the provisions of this section the imposition of criminal sanctions under section 294-39 shall not be precluded."

SECTION 3. Section 294-9, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Except as provided in subsection (d), an application for a no-fault policy, including required optional additional insurance meeting provisions of section 294-11, covering a motor vehicle shall not be rejected by an insurer authorized to issue a no-fault policy unless:

- (1) The principal operator of the vehicle does not have a license which permits the operator to operate the vehicle, or
- (2) The application is not accompanied by [a reasonable portion of the premium, as determined under rules of the commissioner.] at least six months premium for such coverage. Nothing herein prohibits an insurer, at its discretion, from accepting a minimum of two months premium and issuing a policy; provided that a temporary no-fault identification card may not be issued for a period exceeding the period for which premiums have been paid or earned. A no-fault identification card in compliance with section 294-8.5 shall be issued by the insurer once any outstanding premium balance for the policy is paid. This paragraph shall apply only to the first application of a person for a no-fault policy and shall not apply to applications for commercial and fleet vehicles.

(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued shall not be canceled or refused renewal by an insurer except for:

- (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
- (2) Failure to pay the premium for the policy after reasonable demand therefor.

An insurer may refuse to renew optional additional coverage in excess of that which the insurer is required to make available to the insured under section 294-11 where the insured is a member of a class set forth in section 294-22(b)(1)(A) or (B) at the time of the refusal to renew. In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation[,] and the return of the no-fault identification card or a signed affidavit stating the card was lost or stolen, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. Premiums shall be considered "earned" as provided in section 294- . In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of the cancellation or refusal to renew. The cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States Postal Service.

If the insurer has manifested in writing an offer to renew to the named insured at least thirty days prior to the end of the policy period and the offer is not accepted before the expiration of the policy term, the policy shall lapse upon that expiration date and this subsection shall not apply. Notwithstanding other valid methods of acceptance, an offer shall be deemed accepted as of the date of mailing of the acceptance. The date of mailing may be evidenced by the postmark or a certificate of mailing properly validated by the United States Postal Service."

SECTION 4. This Act does not affect rights and duties which matured, penalties which were incurred, and proceedings which were begun, or no-fault policies which were canceled prior to its effective date. This Act shall apply to no-fault policies entered into before but canceled after its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1984.

(Approved May 29, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Nursing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 **[[NEW]] Repeal dates.** [(a) [DELETED] (b)] (a) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- [(5) Chapter 457 (Board of Nursing)
- (6)] (5) Chapter 447 (Dental Hygienists)

[(c)] (b) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)

[(d)] (c) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)

[(e)] (d) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

31, 1988: [(f)] (e) The following chapters are hereby repealed effective December

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)

31, 1989: [(g)] (f) The following chapters are hereby repealed effective December

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)

(g) The following chapter is hereby repealed effective December 31, 1990:

- (1) Chapter 457 (Board of Nursing)."

SECTION 2. Section 457-5, Hawaii Revised Statutes, is amended to read as follows:

"§457-5 Duties and powers of board. (a) The board shall hold meetings as it deems necessary. The board shall have a president and a secretary-treasurer who shall be elected annually from its members.

(b) The board may:

- (1) Adopt, amend, or repeal rules pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter;
- (2) Prescribe standards for preparing persons for licensure under this chapter;
- (3) Provide for surveys of educational programs as it may deem necessary;
- (4) Accredited educational programs as meet the requirements of this chapter and the rules of the board;
- (5) Deny or withdraw accreditation from educational programs for failure to meet prescribed standards;
- (6) Examine, license, and renew the licenses of qualified applicants;
- (7) Conduct hearings upon charges calling for discipline of a licensee or, denial, suspension, or revocation of a license;
- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;

- (9) Cause the prosecution of all persons violating this chapter and to incur necessary expenses therefor; and
- (10) Keep a record of all its proceedings.

(c) The board shall monitor and evaluate the scope of the practice of nursing in other states and make recommendations to the legislature, when deemed desirable, for appropriate amendment to the definitions under section 457-2 and any other provision of this chapter.

[(b)] (d) The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.”

SECTION 3. Section 457-6, Hawaii Revised Statutes, is amended to read as follows:

“§457-6 Executive secretary; other assistants. (a) Subject to chapters 76 and 77, the department of commerce and consumer affairs may employ and remove administrative and clerical assistants as the board may require and prescribe their powers and duties.

(b) [(1)] The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be employed with due regard to the person’s fitness, thorough administrative ability and knowledge [of and experience in the nursing field.] of a health related field.

[(2)] (c) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and orders established thereunder and perform other duties as the board may require[; the]. The executive secretary shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to nursing. The executive secretary shall maintain a manual of policies and procedures of the board of nursing, which shall be updated when necessary. The manual shall be provided to each member of the board and made available for public inspection.”

SECTION 4. Section 457-11, Hawaii Revised Statutes, is amended to read as follows:

“§457-11 Nursing education programs. (a) An institution desiring to conduct a nursing education program to prepare registered or licensed practical nurses shall apply to the board and submit evidence that:

- (1) It is prepared to carry out a program in undergraduate nursing education or a program in the training of nurses as licensed practical nurses, as the case may be; and
- (2) It is prepared to meet the standards as shall be established by law and by the board.

(b) A survey of the institution and its undergraduate or practical nursing program shall be made by the executive secretary or other authorized employee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited nursing education program are met, the program shall be accredited as a nursing education program for registered or licensed practical nurses.

(c) The accreditation standards shall include qualifications necessary for faculty members of the nursing education program; provided that the standards shall not include a requirement that each individual faculty member receive approval of the board prior to teaching in the program. The qualifications shall be reasonable and relevant to the proper teaching of the practice of nursing. In establishing the qualifications, the board shall consult with the University of Hawaii.

[(c)] (d) From time to time as deemed necessary by the board, it shall be the duty of the board, through its authorized representative, to survey nursing education programs in the State. Written reports of the surveys shall be submitted to the board. If the board determines that any accredited nursing education program is not maintaining the standards required by law and by the board, notice thereof in writing specifying the discrepancies shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing held in conformance with chapter 91."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 183

S.B. NO. 1788-84

A Bill for an Act Relating to the General Fund Expenditure Ceiling.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 37-91, Hawaii Revised Statutes, is amended to read as follows:

"[]§37-91[]] **Definitions.** As used in sections 37-92 to 37-94:

[(1)] "State growth" means the estimated rate of growth of the State's economy and shall be established by averaging the annual percentage change in total state personal income for the three calendar years immediately preceding the session of the legislature making appropriations from the state general fund.

When revisions are made to total state personal income, state growth shall be recalculated on the basis of the latest available data.

[(2)] "Total state personal income" means the total state personal income as defined by the state personal income series published by the United States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis, or its successor, for each year for which such income has been determined and published[; for any], including all revisions to the series. For the current and next succeeding calendar year for which such income has not been determined or published, it shall mean the total state personal income for such year as estimated by the council on revenues.

[(3)] "General fund" means the fund used to account for all transactions which are not accounted for in another fund, but excluding federal funds received by that fund.

[(4)] "Expenditure ceiling" means the maximum general fund appropriations allowed in any year. The expenditure ceiling shall be determined by considering the fiscal year 1978-79 general fund appropriations as the expenditure ceiling. The expenditure ceiling for succeeding fiscal years shall be computed by adjusting the immediate prior fiscal year expenditure ceiling by the applicable state growth. When revisions are made to total state personal income, the expenditure ceiling shall be recalculated on the basis of the latest available date,¹ going back to fiscal year 1978-79."

SECTION 2. Section 37-93, Hawaii Revised Statutes, is amended to read as follows:

"[]§37-93[] Legislature. (a) The legislature shall not make appropriations from the general fund for each fiscal year of the biennium or each supplementary budget fiscal year which will exceed the expenditure ceiling for that fiscal year.

(b) The legislature may make appropriations from the general fund in excess of those allowed by subsection (a) by:

- (1) A two-thirds vote of the members to which each house of the legislature is entitled;
- (2) Setting forth the dollar amount and the rate by which the appropriations allowed by the change in the state growth will be exceeded; and
- (3) Setting forth the reasons for exceeding the appropriations allowed by the percentage change in the state growth;

in each act which will cause appropriations from the state general fund to exceed those allowed by the change in state growth.

(c) When revisions in the state personal income series made by the United States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis, or its successor, result in the

recalculation of expenditure ceilings which then are found to be less than appropriation levels, the excess appropriations shall not be deemed invalid and shall remain as authorized in their respective legislative sessions."

SECTION 3. Section 37-113, Hawaii Revised Statutes, is amended to read as follows:

"[]§37-113[] Council on revenues; estimate of total personal income. The council on revenues shall prepare an estimate of the total state personal income for the calendar year in progress and for the next succeeding calendar year for which such income has not been determined or published and shall report the estimate and any revision thereto to the director of finance, the governor, the chief justice, and the legislature each July 15 and October 15."

SECTION 4. Act 277, section 5, Session Laws of Hawaii 1980, is amended to read as follows:

"SECTION 5. This Act shall take effect on July 1, 1980 and shall be repealed as of [June 30, 1984.] June 30, 1986."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect on June 30, 1984.

(Approved May 29, 1984.)

Note

1. Should probably read "data".

ACT 184

S.B. NO. 1867-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-15.5, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-15.5[] [Commercial units; metering.] Metering of utilities.
(a) Notwithstanding the provisions of section 514A-15, commercial apartments in mixed use projects containing apartments for both residential and commercial use, the construction of which commences after December 31, 1977 shall have a separate meter, or calculations shall be made, or both, to determine the use by the commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage, and drainage and the cost of such utilities shall be paid by the owners of such commercial units; provided that the apportionment of such charges

among owners of commercial apartments shall be done in a fair and equitable manner as set forth in the declaration or bylaws.

(b) Subject to any approval requirements and spending limits contained in the declaration or bylaws of an association of apartment owners, the board of directors may authorize the installation of meters to determine the use by the residential and commercial apartments of utilities, including electricity, water, gas, fuel, oil, sewerage and drainage. The cost of metered utilities shall be paid by the owners of such apartments based on actual consumption and may be collected in the same manner as common expense assessments. Owners' maintenance fees shall be adjusted as necessary to avoid any duplication of charges to these owners for the cost of metered utilities."

SECTION 2. Section 514A-83.2, Hawaii Revised Statutes, is amended to read as follows:

"[[§514A-83.2]] Proxies. (a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, at least two business days prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) [Proxy] A proxy [forms] shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment."

SECTION 3. Section 514A-86, Hawaii Revised Statutes, is amended to read as follows:

"[[§514A-86]] Insurance. (a) The association of apartment owners shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or damage by fire sufficient to provide for the repair or replacement thereof in the event of such loss or damages. Flood insurance shall also be provided under the federal Flood Disaster Protection Act if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development. Exterior glass may be insured at the option of the association of apartment owners. The insurance

coverage shall be written on the property in the name of the association of apartment owners. Premiums shall be common expenses. Provision for the insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

(b) The association of apartment owners may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses.

[(b)] (c) Any insurance policy providing the coverage required by [subsection] subsections (a) and (b) shall contain a provision requiring the insurance carrier, at the inception of the policy and on each anniversary date thereof, to provide the board of directors with a written summary, in layman's terms, of the policy. The summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium, and renewal dates. The board of directors shall provide this information to each apartment owner."

SECTION 4. Section 514A-89, Hawaii Revised Statutes, is amended to read as follows:

"§514A-89 Certain work prohibited. No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the consent of seventy-five per cent of the apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that non-material structural additions to the common elements, including, without limitation, the installation of solar energy devices as defined by section 468B-1, or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws. "Non-material structural additions to the common elements", as used herein, shall mean a structural addition to the common elements which does not jeopardize the soundness or safety of the property, reduce the value thereof, impair any easement or hereditament, detract from the appearance of the project, interfere with or deprive any non-consenting owner of the use or enjoyment of any part of property, or directly affect any non-consenting owner."

SECTION 5. Section 514A-91, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-91[]] Joint and several liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantor or grantee is entitled to a statement from the manager or board of directors setting forth the amount of the unpaid assessments against the grantor, and except as to the amount of subsequently dishonored checks mentioned in such statement as having been received within the thirty day period immediately preceding the date of such statement, [neither the grantor nor] the grantee is not liable for, nor is the apartment conveyed subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.”

SECTION 6. Section 514A-92.2, Hawaii Revised Statutes, is amended to read as follows:

“[[§514A-92.2[]] Notification of [cost] maintenance fee increases [in common elements]. The manager or board of directors shall notify the apartment owners in writing of maintenance fee increases [in the cost of common expenses] at least thirty days prior to such an increase [in cost to the apartment owners].”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 185

S.B. NO. 2119-84

A Bill for an Act Relating to Comparable Worth.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide for a study commission to review the concept of comparable worth in Hawaii.

SECTION 2. There is created a temporary commission on comparable worth to be composed of the following: the director of personnel services; the director of civil service of each county; personnel representatives of the department of education and the University of Hawaii; the chairperson of the public employees compensation appeals board; one representative from each of the exclusive representatives representing the public employee bargaining units

and the Public Employees Management Association of Hawaii; the administrative director of courts; the state affirmative action director; and the director of the industrial relations center, University of Hawaii. The legislative auditor shall serve as chairperson of the commission and provide the necessary administrative staff. Members shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

In performance of its duties, the commission may request the assistance of any state or county agency or commission, as it deems necessary to conduct the review required by this Act.

The commission shall conduct a review which shall include but not be limited to: (1) an evaluation of the classification and compensation systems and other laws and practices that determine wages of state and county government including the University of Hawaii, the department of education and the judiciary currently in force and operation; (2) an examination as to job segregation and wage differentials which may exist in state and local government employment; (3) a recommendation, if found necessary, for a job evaluation system that would be appropriate to implement comparable worth for all public employees in Hawaii, or other alternative means of achieving comparable worth if it is found that a single job evaluation system may not be appropriate; and (4) an examination as to the compatibility of the recommended job evaluation system with the existing laws on civil service, compensation, and collective bargaining. In the conduct of the review, the commission may hold public hearings on any matter related to the state and local government job evaluation and wage setting process.

The commission shall prepare and submit an interim report of its preliminary findings to the legislature prior to the convening of the regular session of 1985.

Thereafter the commission shall prepare and submit a final report of its findings to the legislature twenty days prior to the convening of the regular session of 1986. The final report shall include recommendations, if found necessary, for the establishment of equitable standards for compensable factors and changes required to the existing statutes, pay structures, and the job evaluation and wage setting process in order to achieve equity.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 186

S.B. NO. 2213-84

A Bill for an Act Relating to the Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$15.98] \$26.04 for each of their respective employee-beneficiaries and [\$49.14] \$80.04 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. The monthly contribution shall be based upon the HMSA regular plan rates which are approved by the board.”

SECTION 2. There shall be appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$5,338,842 for the fiscal year 1984-85, or so much thereof as may be necessary, for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1985 shall lapse into the general fund.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1984.

(Approved May 29, 1984.)

ACT 187

S.B. NO. 2243-84

A Bill for an Act Relating to Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) After June 30, 1980, the department of transportation shall not renew or issue a permit to a person who is not the owner [or lessee] of the vessel which is moored or which the person desires to moor in a state small boat harbor. Any individual who, on the effective date of this Act, is an owner of a vessel used for commercial purposes and possesses a valid mooring permit or commercial permit or both, shall have one year to transfer ownership of the vessel from personal ownership to corporate or other business ownership

without terminating the right to moor or operate the vessel under the permit or permits. The existing permit or permits shall be reissued in the name of the transferee corporation or other business entity.

For the purposes of this section, “person” means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity, and “owner” includes [a] the legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel[.] under a lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. A “legal owner” includes a person who holds unencumbered title to a vessel or is a secured party under a security interest in the vessel. An owner who is issued a permit to moor a vessel in a state small boat harbor shall notify the department in writing of a transfer of interest or possession in the vessel within seven days of the transfer.

Any corporation or other business entity possessing a valid commercial permit issued by the department may, in accordance with rules adopted by the department pursuant to chapter 91, transfer any or all stock or other interest to another person without terminating its right to retain or renew its commercial permit or any other permit issued to it by the department. Any person possessing a commercial permit shall be required to meet minimum revenue standards, as provided by rules adopted by the department pursuant to chapter 91, as a condition of retaining or renewing the commercial permit.”

SECTION 2. Section 266-25, Hawaii Revised Statutes, is amended to read as follows:

“§266-25 Violation of [regulations;] rules; penalty. Any person who violates any rule [or regulation] made, adopted, and published by the department of transportation as herein provided, or who violates any lawful command of any [pilot,] harbor master, [or assistant pilot or] harbor [master,] agent, or harbor district manager, while in the discharge of his duty or who violates this chapter, shall be fined not more than \$1,000 for each offense, and any vessel, the agents, owner, or crew of which violate the rules [and regulations] of the department or this chapter, shall be fined not more than \$1,000 for each violation[.]; provided that, in addition to, or as a condition to the suspension of the fines and penalties, the court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 188

H.B. NO. 1729-84

A Bill for an Act Relating to Involuntary Civil Commitment Under Mental Health Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

“(e) Release from emergency hospitalization. If at any time during the period of emergency hospitalization the responsible physician concludes that the patient no longer meets the criteria for emergency hospitalization the physician shall discharge him. If the patient is under criminal charges, he shall be returned to the custody of a law enforcement officer. In any event, the patient must be released within forty-eight hours of his admission, unless the patient voluntarily agrees to further hospitalization, or a proceeding for court-ordered evaluation and/or hospitalization is initiated as provided in section 334-60(b)(2). If that time expires on a Saturday, Sunday, or holiday, the time for initiation is extended to [noon] the close of the next court day. Upon initiation of the proceedings the facility shall be authorized to detain the patient until further order of the court.”

SECTION 2. Section 334-60, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 334, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read:

“§334- Voluntary admission for nonemergency treatment or supervision.

(a) Acceptance for voluntary inpatient treatment at a psychiatric facility shall be in accordance with usual standards for hospital admissions.

(b) A facility may admit for evaluation, diagnosis, or treatment any individual under fifteen years of age for whom application is made by his parent or guardian. If application for admission is countersigned by a minor aged fifteen through seventeen years before a family court officer, no hearing shall be necessary. If he elects not to sign, involuntary hospitalization proceedings shall be initiated.

(c) A facility shall discharge a voluntary patient who has sufficiently improved so that hospitalization is no longer desirable. A voluntary patient or his guardian, representative, or attorney may request discharge in writing at any time following admission to the facility. If discharge would be dangerous to the

patient or others, proceedings for involuntary hospitalization must be initiated as soon as possible but within twenty-four hours of the receipt by the administrator of the written request for discharge. If that time expires on a Saturday, Sunday, or holiday, the time for initiation is extended to the close of the next court day. Upon the initiation of the proceedings, the facility is authorized to detain the patient until further order of the court. If the patient was admitted on his own application and the request for discharge is made by a person other than the patient, the discharge may be conditioned upon the agreement of the patient.

(d) Notice of right to release. At the time of his admission and each six months thereafter, a voluntary patient and his guardian or representatives shall be notified in writing of his right and how to apply for a discharge.

§334- Involuntary hospitalization criteria. A person may be committed to a psychiatric facility for involuntary hospitalization if the court finds:

- (1) That the person is mentally ill or suffering from substance abuse, and
- (2) That he is imminently dangerous to himself or others, and
- (3) That he is in need of care or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization.

§334- Initiation of proceeding for involuntary hospitalization. (a) Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public. The attorney general, his deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician to determine the person is in need of care or treatment, or both, and whether or not he is capable of realizing and making a rational decision with respect to his need for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner may request such further evaluation.

(b) In the event the subject of the petition has been given an examination, evaluation, or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition may be accompanied by the administrator's certificate in lieu of a physician's certificate.

§334- Notice; waiver of notice; hearing on petition; waiver of hearing on petition for involuntary hospitalization. (a) The court shall set a hearing on the petition and notice of the time and place of such hearing shall be served in accordance with, and to those persons specified in, a current order of commitment. If there is no current order of commitment, notice of the hearing shall be served personally on the subject of the petition and served personally or by certified or registered mail, return receipt requested, deliverable to the addressee only, on the subject's spouse, legal parents, adult children, and legal guardian, if one has been appointed. If the subject of the petition has no living spouse, legal parent and adult children, or if none can be found, notice of the hearing shall be served on at least one of his closest adult relatives if any can be found. Notice of the hearing shall also be served on the public defender, attorney for the subject of the petition, or other court-appointed attorney as the case may be. If the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition if such person can be found within the State. Notice shall also be given to such other persons as the court may designate.

(b) The notice shall include the following:

- (1) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the subject; and a statement of the legal standard upon which commitment is authorized;
- (2) A copy of the petition;
- (3) A written notice, in plain and simple language, that the subject may waive such a hearing by voluntarily agreeing to hospitalization, or with the approval of the court, to some other form of treatment;
- (4) A filled-out form indicating such waiver;
- (5) A written notice, in plain and simple language, that the subject or his guardian or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if he has previously waived such a hearing;
- (6) Notice that the subject is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings;
- (7) Notice that if the subject does not want to be represented by the public defender he may contact his own attorney;
- (8) Notice, if such be the case, that the petitioner intends to adduce evidence to show that the subject of the petition is an incapacitated or protected person, or both, under Article V of chapter 560, and whether or not appointment of a guardian of the person is sought at the hearing. If appointment of a guardian of the person is to be

recommended, and a nominee is known at the time the petition is filed, the identity of the nominee shall be disclosed.

(c) If the subject executes and files a waiver of the hearing, upon acceptance by the court following a court determination that the person understands his rights and is competent to waive them, the court shall order the subject to be committed to a facility that has agreed to admit the subject as an involuntary patient or, if he is at such a facility, that he be retained there.

§334- Hearing on petition. (a) The court may adjourn or continue a hearing for failure to timely notify a spouse, guardian, relative, or other person determined by the court to be entitled to notice, or for failure by the subject to contact an attorney as provided in section 334- (7) if the court determines the interests of justice so require.

(b) The time and form of the procedure incident to hearing the issues in the petition shall be provided by court rule. Unless the hearing is waived, the judge shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by the subject of the petition, his attorney, or those persons entitled to receive notice of the hearing under section 334- .

(c) The subject of the petition shall be present at all hearings unless he waives his right to be present, is unable to attend or creates conditions which make it impossible to conduct the hearing in a reasonable manner as determined by the judge. A waiver is valid only upon acceptance by the court following a judicial determination that the person understands his rights and is competent to waive them or is unable to participate. If the subject is unable to participate, the judge shall appoint a temporary guardian as provided in Article V of chapter 560, to represent him throughout the proceedings.

(d) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested person, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition.

(e) The attorney general, his deputy, special deputy, or appointee shall present the case for hearings convened under this chapter, except that the attorney general, his deputy, special deputy, or appointee need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for involuntary hospitalization.

(f) Counsel for the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that the counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to inpatient hospitalization.

(g) No individual may be found to require medical treatment unless at least one physician who has personally examined him testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician, he may be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing him to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject's refusal shall be treated as a denial that he is mentally ill or suffering from substance abuse. Nothing herein, however, shall limit the individual's privilege against self-incrimination.

(h) The subject of the petition in a hearing under this section has the right to secure an independent medical evaluation and present evidence thereon.

(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, or other rehabilitative treatment or supervision, the court shall order that he be discharged if he has been hospitalized prior to the hearing. If the court finds that the criteria for involuntary hospitalization under section 334- has been met beyond a reasonable doubt and that the criteria under sections 334- and 334- have been met by clear and convincing evidence, the court may issue an order to any police officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to section 334- , together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.

(j) The court may find that the subject of the petition is an incapacitated or protected person, or both, under Article V of chapter 560, and may appoint a guardian of the person, or property, or both, for the subject under the terms and conditions as the court shall determine.

§334- Period of detention. The psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged by the facility pursuant to section 334-76 or section 334-74. At the end of the ninety-day period he shall be discharged automatically except as provided in sections 704-406, 704-411, and 706-607, unless before expiration of the period and by a proceeding initiated pursuant to section 334- the facility obtains a court order for his recommitment. Recommitment for a period not to exceed ninety days may not be ordered unless the court determines that the criteria for involuntary hospitalization set forth in section 334- continue to exist. If at the end of a recommitment period the court finds

that the criteria for involuntary hospitalization set forth in section 334- continue to exist and are likely to continue beyond ninety days, the court may order recommitment for a period not to exceed one hundred eighty days.

§334- Notice of intent to discharge. When the administrator of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in section 334- the administrator shall provide notice of intent to discharge. The notice shall be filed with the court and served personally or by certified mail on those persons which the order of commitment specifies as entitled to receive notice. If no objection is filed within three days of service, the administrator of the psychiatric facility shall discharge the patient. If any person specified as entitled to receive notice files a written objection to discharge, the court shall conduct a hearing to determine if the patient still meets the criteria for involuntary hospitalization in section 334- . If the court finds that the patient does not meet the criteria for involuntary hospitalization in section 334- , the court shall issue an order of discharge. If the court finds that the patient does meet the criteria for involuntary hospitalization in section 334- , the court shall issue an order denying discharge."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 189

H.B. NO. 1742-84

A Bill for an Act Relating to the Determination of Death.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) Except as provided in subsection (b) of this section, a person shall be considered dead if, in the announced opinion of a physician licensed under part I of chapter 453 or under chapter 460, or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory functions [, or irreversible cessation of all functions of the entire brain, including

the brain stem]. Death will have occurred at the time when the irreversible cessation of the functions first coincided.

(b) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a person shall be considered dead if, in the opinion of an attending physician licensed under part I of chapter 453 or under chapter 460, or excepted from licensure by section 453-2(3), and of a consulting physician licensed under part I of chapter 453 or under chapter 460, or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of [brain function.] all functions of the entire brain, including the brain stem. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of [brain function,] all functions of the entire brain, including the brain stem, first occurred. Death shall be pronounced before artificial means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor's death is established by determining that the donor experienced irreversible cessation of [brain function,] all functions of the entire brain, including the brain stem, the determination shall only be made under subsection (b) of this section. The determination of death in all other cases shall be made under subsection (a) of this section. The physicians making the determination of death shall not participate in the procedures for removing or transplanting a part, or in the care of any recipient."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 190

H.B. NO. 1751-84

A Bill for an Act Relating to Sharing Occupational and Career Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that there is a need to share occupational and educational information between complementary entities and jurisdictions due to common economic, environmental, employment, and cultural bases and processes. Many job seekers come to Hawaii from states and territories without knowing about local employment conditions and requirements. Significant social and economic burdens can be placed on Hawaii due to

mismatches between the preparation these job seekers have had and the needs of the Hawaii labor market. It would be to the benefit of Hawaii to share this information with states and territories, as well as with counties in Hawaii and private entities. States and territories would benefit by knowing Hawaii's demands so that they could better inform their citizens of opportunities and barriers. Also, Hawaii can benefit in its economic relationships with states and territories by exchanging labor market information with these areas.

The purpose of this Act is to provide for the possibility of sharing occupational and educational information among Hawaii, counties, states, territories, and other public and private entities to their mutual benefit. No cost is to be incurred by Hawaii for services given. The Hawaii career information delivery system program of the department of labor and industrial relations is authorized by this Act to receive such cost reimbursements for services and information rendered, and such reimbursements shall be deposited into the state general fund.

SECTION 2. Chapter 373C, Hawaii Revised Statutes, is amended by adding a new section to Part IV to read:

"§373C-34 Authorization to receive cost reimbursements. The department of labor and industrial relations may make such agreements or contracts as are approved by the governor with any county, city, state, territory, association, society, or person for the purpose of sharing occupational and education information used for career choice and job search purposes. The general fund appropriation shall include the projected income for the terms and conditions of the resulting agreements or contracts for the purposes set forth herein. All moneys received for the sharing of occupational and educational information shall be deposited into the state general fund."

SECTION 3. Nothing in this Act shall be construed to limit the powers of the department of labor and industrial relations hereinbefore expressed or to empower the department to obligate the State financially in any sum which has not been appropriated by the legislature for the use of the department. All moneys received for the purposes set forth in this Act shall be deposited into the state general fund as reimbursement for the authorized expenses set forth herein. The net result would be no additional cost to the state.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 519-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) In the event the parties to a lease are unable to achieve an agreement under any reopening provision, the Hawaii housing authority or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties. Arbitration proceedings under this subsection will be subject to the following requirements:

- (1) An advance deposit, which amount shall be determined by the authority, equal to projected expenses and fees of the authority or its designee for arbitration proceedings shall be required and shall be paid equally by lessees and lessors. All additional expenses and fees incurred by the authority or its designee while acting as the arbitrator shall be borne equally by lessees and lessors. These additional expenses and fees shall be subject to monthly billings or other arrangements which may be specified by contract. If more than one lessee is involved in an arbitration proceeding, all lessees shall share equally in one-half of the arbitration costs. The same division of costs shall apply if more than one lessor is involved in a proceeding.
- (2) Failure on the part of lessees to comply with the provisions set forth in this subsection, including failure to make advance deposits or payments, shall result in forfeiture of any rights or remedies under this chapter for arbitration, and the lessees’ sole rights and remedies shall be as provided in the lease document.
- (3) If lessors fail to comply with the provisions of this subsection, including failure to make advance deposits or payments, then arbitration proceedings under this chapter will cease and the lease rent shall be set at the most recent fixed lease rent. Upon compliance with the provisions of this chapter, the arbitration may proceed, with the determination of the new lease rent effective only from the date of compliance by the lessor.
- (4) Except as provided in paragraphs (b)(2) and (b)(3) above, all new lease rents shall be effective as of the date of reopening.

For the purpose of this subsection, “arbitration proceedings” means the actual arbitration conducted by the authority or its designee pursuant to a contract executed by and among the lessees, lessor, and the arbitrator detailing among other things, the following: description of properties involved, time of

performance, compensation, method of payment, settlement and other procedures, and termination.”

SECTION 2. Section 519-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) In the event the parties to a lease are unable to achieve an agreement under any reopening provision, the Hawaii housing authority or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties. Arbitration proceedings under this subsection will be subject to the following requirements:

- (1) An advance deposit, which amount shall be determined by the authority, equal to projected expenses and fees of the authority or its designee for arbitration proceedings shall be required and shall be paid equally by lessees and lessors. All additional expenses and fees incurred by the authority or its designee while acting as the arbitrator shall be borne equally by lessees and lessors. These additional expenses and fees shall be subject to monthly billings or other arrangements which may be specified by contract. If more than one lessee is involved in an arbitration proceeding, all lessees shall share equally in one-half of the arbitration costs. The same division of costs shall apply if more than one lessor is involved in a proceeding.
- (2) Failure on the part of lessees to comply with the provisions of this subsection, including failure to make advance deposits or payments, shall result in forfeiture of any rights or remedies under this chapter for arbitration, and the lessees’ sole rights and remedies shall be as provided in the lease document.
- (3) If lessors fail to comply with the provisions set forth in this subsection, including failure to make advance deposits or payments, then arbitration proceedings under this chapter will cease and lease rent shall be set at the most recent fixed lease rent. Upon compliance with the provisions set forth in this chapter, the arbitration may proceed, with the determination of the new lease rent effective only from the date of compliance by the lessor.
- (4) Except as set forth in paragraphs (b)(2) and (b)(3) above, all new lease rents shall be effective as of the date of reopening.

For the purpose of this subsection, “arbitration proceedings” means the actual arbitration conducted by the authority or its designee pursuant to a contract executed by and among the lessees, lessor, and the arbitrator detailing among other things, the following: description of properties involved, time of performance, compensation, method of payment, settlement and other procedures, and termination.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 192

H.B. NO. 1906-84

A Bill for an Act Making an Appropriation for Agricultural Activities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$193,000, or so much thereof as may be necessary for fiscal year 1984-1985, for the support of statewide agricultural activities.

1. For the study of managerial strategies to minimize the use of chemical nematicides on pineapples\$ 65,000
2. For the continuation of the pesticide education program for farmers28,000
3. For commodity group research10,000
4. For research on and development of nematicides and methods of nematicide application70,000
5. For the State Farm Fair.....20,000

SECTION 2. The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved May 29, 1984.)

ACT 193

H.B. NO. 2142-84

A Bill for an Act Relating to Driving Under the Influence of Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-4, Hawaii Revised Statutes, is amended to read as follows:

"§291-4 Driving under influence of intoxicating liquor. (a) A person commits the offense of driving under the influence of intoxicating liquor if:

- (1) The person operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor; or

- (2) The person operates or assumes actual physical control of the operation of any vehicle with 0.10 per cent or more, by weight of alcohol in the person's blood.

(b) A person committing the offense of driving under the influence of intoxicating liquor shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section, by:
 - (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court; and
 - (B) ~~[Ninety day]~~ Thirty-day prompt suspension of license with absolute prohibition from operating a motor vehicle during suspension of license[;] and a sixty-day restricted, provisional or conditional license to be ordered by the court; and
 - (C) Any one or more of the following:
 - (i) Seventy-two hours of community service work; or
 - (ii) Not less than forty-eight hours of imprisonment; or
 - (iii) A fine of not less than \$150 but not more than \$1,000.
- (2) For an offense which occurs within five years of a prior conviction under this section:
 - (A) Prompt suspension of license for a period of one year[; and] with the absolute prohibition from operating a motor vehicle during suspension of license;
 - (B) ~~[Any]~~ Either one of the following:
 - (i) Not less than [ten days] eighty hours of community service work; or
 - (ii) Not less than forty-eight consecutive hours of imprisonment[;or] and
 - (C) [(iii)] A fine of not less than \$500 but not more than \$1,000.
- (3) For an offense which occurs within five years of two prior convictions under this section, by:
 - (A) A fine of not less than \$500 but not more than \$1,000;
 - (B) Revocation of license for a period not less than one year but not more than five years; and
 - (C) Not less than ten days but not more than one [hundred-eighty] hundred eighty days imprisonment.
- (4) Notwithstanding any other law to the contrary, any conviction for driving under the influence of intoxicating liquor, shall be considered a prior conviction.

(c) Whenever a court sentences a person pursuant to section 291-4(b)(2) or (3), it shall also require that the offender be referred to a substance abuse

counselor who has been certified pursuant to section 321-193 for an assessment of the offender's alcohol dependence and the need for treatment. The counselor shall submit a report with recommendations to the court. The court may require the offender to obtain appropriate treatment.

All costs for such assessment or treatment or both shall be borne by the offender.

[(c)] (d) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to such person an application for a new driver's license for such period as specified by the court.

[(d)] (e) As used in this section the terms "driver," "driver's license," "examiner of drivers," and "vehicle" shall have the same meanings as provided in section 286-2."

SECTION 2. Section 291-5, Hawaii Revised Statutes, is amended to read:

"§291-5 Evidence of intoxication. (a) In any criminal prosecution for a violation of section 291-4, ten-hundredths per cent or more by weight of alcohol in the defendant's blood within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation.

(b) In any criminal prosecution for a violation of section 291-4, the amount of alcohol found in the defendant's blood within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation and shall give rise to the following presumptions:

- (1) If there [was] were five-hundredths per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor at the time of the alleged violation.
- (2) If there [was] were in excess of five-hundredths per cent but less than ten-hundredths per cent by weight of alcohol in the defendant's blood, such fact may be considered with other competent evidence in determining whether or not the defendant was at the time of the alleged violation under the influence of intoxicating liquor but shall not of itself give rise to any presumption.

(c) [The foregoing provisions of this section] Subsection (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor at the time of the alleged violation."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon approval except that subsection (c) of section 291-4 as set forth in Section 1 of this Act shall take effect on December 31, 1984.

(Approved May 29, 1984.)

ACT 194

H.B. NO. 2224-84

A Bill for an Act Relating to Motor Vehicle Insurance Rates.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to the no-fault coverages described in section 294-10 every insurer issuing a no-fault policy shall make available to the insured the following optional insurance under the following conditions:

- (1) At the option of the insured, every insurer shall offer provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles including \$250, as the commissioner, by regulation, shall provide.
- (2) At the option of the insured, every insurer shall offer to compensate for damage, not covered by no-fault benefits, to the insured, his spouse, any dependents, or any occupants of the insured's vehicle.
- (3) Additional coverages and benefits with respect to any injury, death, or any other loss from motor vehicle accidents or loss from operation of a motor vehicle. An insurer may provide for aggregate limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 294-10(a)(1) and (2).
- (4) Terms, conditions, exclusions, and deductible clauses consistent with the required provisions of such policy and approved by the commissioner who shall only approve terms, conditions, exclusions, deductible clauses, coverages, and benefits which are fair and equitable, and which limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers.
- (5) At appropriately reduced premium rates, no-fault insurers shall offer each of the following deductibles applicable only to claims of

no-fault insureds and, in case of death of a no-fault insured, of his survivors:

- (A) Deductibles in the amounts of \$100, \$300, and \$500 from all no-fault benefits otherwise payable, except that if two or more no-fault insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them; and
- (B) Deductibles in the amounts of [\$100, \$300,] \$500, [and \$1,000] \$1,500 and \$3,000 per accident from all no-fault benefits otherwise payable for injury to a person which occurs while he is operating or is a passenger on a motor vehicle with less than four wheels."

SECTION 2. Section 294-13, Hawaii Revised Statutes, is amended to read as follows:

"§294-13 Motor vehicle insurance rates. (a) Except as otherwise provided in this chapter, all premium rates for motor vehicle insurance shall comply with the provisions of the casualty rating law contained in chapter 431.

(b) All premium rates for motor vehicle insurance shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience within this State, to catastrophe hazards, if any, to a reasonable margin for profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective loss experience within the State; reasonable margin for profit from and contingencies in the administration of motor vehicle insurance sold within the State; past and prospective expenses in the sale and administration of motor vehicle insurance within the State; and, optionally, to past or prospective loss, sales and administrative costs experience in the nation or regionally, whenever such consideration will serve to reduce rates.
- (2) Due consideration shall be given to the investment income from reserves and unearned insurance premiums and other unearned proceeds received on account of motor vehicle insurance sold in this State, and all other factors that may be deemed relevant, such as but not limited to types of vehicles, occupations, and involvement in past accidents, provided they are established to have a probable effect upon losses or expense, or rates.

- (3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (4) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
- (5) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (6) Rate making and regulation of rates for all insurance subject to this chapter shall be governed by chapter 431; subject, however, to the following:
 - (A) To assure the proper implementation and evaluation of the chapter the commissioner shall fully comply with the provisions of section 431-703;
 - (B) Except as provided in subsection (j) the commissioner shall establish rates and shall consider with other relevant factors loss experience in this State and the investment income of the insurers, and insofar as section 431-694 and section 431-695 are in conflict with this provision, sections 431-694 and 431-695 shall not be applicable herein;
 - (C) To afford all interested persons an opportunity to be heard the commissioner shall, after notice is published pursuant to chapter 91, hold a public hearing whenever rates are to be increased;
 - (D) The initial rates shall be reviewed prior to September 1, 1975, and thereafter shall be reviewed at least every two years. The commissioner shall issue a public statement or an order approving the rates for the benefit of the public;
 - (E) The commissioner shall order insurers to rebate to policyholders any excessive profit realized by insurers from their operations.

(c) Except to the extent necessary to meet the provisions of paragraph (4) of subsection (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(d) No manual of classification, rule, rate, rating plan, designation of rating territories, or standard for motor vehicle insurance shall be effective unless approved by the commissioner. The commissioner may accept from an advisory organization basic standards, manuals of classification, territories, endorsements, forms¹ and other materials, not dealing with rates, for reference filings by insurers. The commissioner shall have the power to set rates under this chapter, pursuant to and following the procedure under chapter 91, except as specifically provided herein. The commissioner shall not set any rates without a public hearing at which all affected and interested parties have a full opportunity to examine, to comment, and to present evidence on the impact and application of the proposed establishment, or revision of rates. The commissioner shall publish a notice of the date, time, and place of the public hearing at least once in each of three successive weeks in a newspaper of general circulation.

(e) Any person aggrieved by the application as to him of any classification, rule, standard, rate, or rating plan made, followed, or adopted by an insurer may make written request to the commissioner to review such application and grant the relief requested. If the commissioner finds that probable cause for the complaint exists or that the complaint charges a violation of this chapter or any applicable provisions of the casualty rating law, he shall conduct a hearing on the complaint. The hearing shall be subject to the procedure provided in section 431-705(a).

(f) If the commissioner has good cause to believe that a classification, rule, standard, rate, rating territory, or rating plan made, followed, or adopted by an insurer does not comply with any of the requirements of this chapter or any applicable provisions of the casualty rating law, he shall, unless he has good cause to believe that such noncompliance is wilful, give notice, in writing, to each insurer stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten days thereafter, within which such noncompliance may be corrected. Notices under this subsection shall be confidential as between the commissioner and the parties unless a hearing is held as provided in subsection (g).

(g) If the commissioner has good cause to believe such noncompliance to be wilful, or if, within the period prescribed by the commissioner in the notice, the insurer does not make such changes as may be necessary to correct the noncompliance specified by the commissioner or established to the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may proceed with a hearing which shall be subject to the hearing procedure provided in section 431-705(a).

(h) If, after a hearing conducted pursuant to subsection (b) or (e), the commissioner finds that the complainant is entitled to relief or that any classification, rule, standard, rate, rating territory, or rating plan violates this

chapter or any applicable provisions of the casualty rating law, he shall issue an order granting the complainant's claim for relief or prohibiting the insurer from using such classification, rule, standard, rate, rating territory, or rating plan. The order shall contain the commissioner's findings of fact and conclusions of law, including, as appropriate, a specification of the respects in which a violation of this chapter or any applicable provision of the casualty rating law exists and shall specify a reasonable time period within which the insurer shall comply with the terms of the order. Any such order shall be subject to judicial review in accordance with the provisions of section 431-705(b).

(i) The commissioner shall periodically review and evaluate the motor vehicle insurance program described in this chapter, including an annual review of the premium rates, benefit payments, and insurers' loss experience.

(j) The commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section 294-23. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time to adjust rates, for the no-fault, mandatory, or optional-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

In the establishment of their individual rate schedules, each insurer shall conform fully to subsection (b)(1), (2), and (4).

(k) Notwithstanding any other law to the contrary, no insurer shall agree, combine, or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11. This subsection shall not apply to advisory organizations referred to in section 431-700 which are not involved in rate making under this chapter.

(l) Notwithstanding subsection (j), commencing with September 1, 1974, the commissioner shall enforce a mandatory reduction of not less than fifteen per cent by each insurer, calculated as a percentage of the insurer's premium for a comparable combination of insurance coverage in effect on January 1, 1973, on

all motor vehicle coverages, as provided in this chapter, including the basic no-fault policy. There shall be no exception to the requirements of this provision, unless the commissioner shall find that the use of the rates required herein by an insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates. No rate for the insurance required by this chapter shall be increased prior to September 1, 1975, unless the insurer proposing such rate increase shall show that the rates herein are inadequate as stated above.

(m) Notwithstanding subsection (j) all insurers of any motorcycle, motor scooter, or vehicle with less than four wheels shall provide a ten per cent reduction off the regular premium each insurer assesses for such policy, to the operator purchasing a no-fault policy who has successfully completed a safe driving course approved by the director of transportation.

(n) Notwithstanding subsection (j) at the option of each insurer all premium rates on a no-fault policy for any motorcycle, motor scooter, or vehicle with less than four wheels may provide a discount of not more than ten per cent to the operator purchasing a no-fault policy when the operator submits an affidavit to the insurer that he will wear a safety helmet that is approved by the director of transportation during the operation of the insured vehicle; provided that if the insurer provides for a discount the insurer may provide for a surcharge of an amount equal to the discount for those operators who do not submit an affidavit that they will wear an approved safety helmet during the operation of the insured vehicle.

No insured shall operate a vehicle insured under a no-fault policy under this section which provides for a discount for the use of a safety helmet, unless the insured is wearing an approved safety helmet.

(o) Notwithstanding subsection (j), all insurers of any motorcycle, motor scooter, or vehicle with less than four wheels may provide a reduction of not more than fifteen per cent off the regular premium each insurer assesses to the operator purchasing a renewal no-fault policy, and a reduction of not more than fifteen per cent off the regular premium each insurer assesses to the operator purchasing a no-fault policy when the operator purchases insurance for more than one vehicle of the type described in this subsection."

SECTION 3. Section 294-24, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The commissioner shall periodically set rate schedules, but not less frequently than annually, for all classes¹ in accordance with this part and the following criteria, so that the total premium income, from all plan motor vehicle insurance, when combined with the investment income, shall annually fund the costs of all joint underwriting plan classes, the joint underwriting assigned

claims plan, and the administration of the plans. The commissioner shall establish rates for the following classes within the restrictions stated:

- (1) Motorcycles and motor scooters shall be assessed a premium rate not in excess of that assessed the same driver for automobile coverage; with provisions for deductible no-fault policies of [\$100, \$300,] \$500, and [\$1,000,] \$1,500 and \$3,000;
- (2) For the licensed public assistance driver, as defined at section 294-22(b)(2)(A), no premium shall be assessed for the basic no-fault, the mandatory public liability or the mandatory property damage policies; and all policies shall conform to the provisions of section 294-22(b)(2); and
- (3) For the physically limited driver defined at section 294-22(b)(2)(B), no rate shall be set higher than that assessed a comparable driver without limitation, except that a higher rate may be surcharged under any applicable standard conforming with section 294-24(a)(2).

The commissioner shall set various systems and schedules of rates based upon the risks involved, the experience with various exposures, uses, and drivers, and may include the establishment of surcharges for specific risks, drivers, and uses¹ for each of the enumerated classes except the classes limited under paragraphs (2) and (3)."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect on July 1, 1984.

(Approved May 29, 1984.)

Note

1. Prior to amendment "," appeared here.

ACT 195

H.B. NO. 2402-84

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds to Assist Utilities Serving the General Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. ACT 15, Session Laws of Hawaii 1981, First Special Session, is amended by amending section 2 to read as follows:

"SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in a total amount not to exceed \$72,252,000 in one or more series for the following capital improvement programs which are multi-project programs for the local furnishing of electric energy by electric utilities serving the general public:

Company	Amount of Authorization
Hawaiian Electric Co. (Oahu)	
Multi-project capital improvement program, including generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through [June 30, 1984] <u>December 31, 1991</u>	\$42,580,000
Hawaii Electric Light Co.	
Multi-project capital improvement program, including the acquisition of land, generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through [June 30, 1984] <u>December 31, 1991</u>	\$18,645,000
Maui Electric Co.	
Multi-project capital improvement program, including generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through [June 30, 1984] <u>December 31, 1991</u>	\$ 7,727,000

ACT 196

Citizens Utilities Co. (Kauai)

Multi-project capital improvement program, including the acquisition of land, generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through [June 30, 1984]

December 31, 1991\$ 3,300,000

Total Authorization \$72,252,000

provided that public utilities commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act; and provided further that of the amount authorized none shall be used for new fossil fuel generating units and none shall be used for nuclear fuel generating units."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 196

H.B. NO. 2429-84

A Bill for an Act Relating to Employment Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 378-33, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) No complaint shall be filed after the expiration of thirty days after the alleged act of unlawful suspension, discharge, or discrimination, or after the employee learns of the suspension or discharge, except that a complaint for an alleged act of unlawful discharge under section 378-32(2) occurring while the aggrieved employee is still physically or mentally incapacitated and unable to work [shall be considered to have occurred on] also may be filed before the expiration of thirty days after the date the aggrieved employee is able to return to work."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1984.)

ACT 197

H.B. NO. 537

A Bill for an Act Relating to Financial Institution Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-13, Hawaii Revised Statutes, is amended to read as follows:

“§346-13 Attendance and testimony of witnesses. (a) In all hearings or investigations conducted by or initiated at the request of the director of social services or his designated subordinate with respect to all matters reasonably related to department functions and programs, the director or his designated subordinate shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of books, papers, documents, or objects deemed relevant to the investigation or inquiry, and examining or causing to be examined witnesses as are possessed by a circuit court and may take depositions and certify to official acts. Books, papers, documents, or objects obtained pursuant to such an investigation or inquiry may be retained by the director or his designated subordinate for a reasonable period of time for the purpose of examination, audit, copying, testing, or photographing. The circuit courts upon application by any of such officers shall have power to enforce by proper proceedings the attendance and testimony of any witnesses so subpoenaed and the production of books, papers, documents, or objects. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit court. Necessary expenses of or in connection with the hearings or investigations shall be payable from the funds appropriated for expenses of the department of social services and housing.

(b) Upon the written request of the director of social services or a designated subordinate, a financial institution, including but not limited to banks, savings and loan associations, and credit unions, shall furnish the records of accounts, deposits, and withdrawals of any applicant for or recipient of public assistance. Notwithstanding any other law to the contrary, the director shall require every applicant for public assistance to furnish written consent to authorize any financial institution to furnish the records of accounts, deposits, and withdrawals of such applicant. The director at the time of making a written request for information, shall provide to the financial institution written certification that the applicant for or recipient of public assistance has furnished such written consent. The director shall pay a reasonable fee to each such institution, not to exceed the actual cost of providing the information requested.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 198

H.B. NO. 791

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

"§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the [state service] State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;

- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court[, and one law clerk for] and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private

employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and

- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 199

H.B. NO. 1571

A Bill for an Act Relating the the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the Hawaiian Homes Commission Act, 1920, as amended, to extend the term of employment of contract individuals.

SECTION 2. Section 202, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read:

"(b) The provisions of section 76-16, Hawaii Revised Statutes, shall apply to the positions of the first deputy and private secretary to the chairman of the commission. The department may hire a staff consisting of qualified aides in finance and funding, planning and development, legal matters, agriculture and ranching, and other individuals on a contractual basis not subject to chapters 76, 77, and 78, Hawaii Revised Statutes, when the services to be performed will assist in carrying out the purposes of the Act. These positions may be funded through appropriations for capital improvement program projects and by the administration account, development, or operating funds. No contract shall be for a period longer than two years, [and no individual] but individuals hired under contract [shall] may be employed [beyond] for a maximum of six years[.]; provided that the six-year limitation shall not apply if the department, with the approval of the governor, determines that such contract individuals are needed to provide critical services for the efficient functioning of the department. All other positions in the department shall be subject to [the provisions of] chapters 76 and 77, Hawaii Revised Statutes, and employees having tenure, according to

the employment practices of the department, immediately prior to June 20, 1963, and occupying positions in accordance with the State's position classifications and compensation plans shall be given permanent appointment status under chapter 76 without a reduction in pay or the loss of seniority, prior service credit, vacation, or sick leave earned heretofore. An employee with tenure who does not occupy a position under chapters 76 and 77, Hawaii Revised Statutes,¹ shall be appointed to the position after it has been classified and assigned to an appropriate salary range by the director of personnel services and such employee shall not suffer a reduction in pay or loss of seniority and other credits earned heretofore.

All vacancies and new positions which are covered by [the provisions of] chapters 76 and 77, Hawaii Revised Statutes, shall be filled in accordance with [the provisions of] sections 76-23 and 76-31, Hawaii Revised Statutes, provided that the provisions of these sections shall be applicable first to qualified persons of Hawaiian extraction."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Underscoring missing.

ACT 200

H.B. NO. 1740-84

A Bill for an Act Relating to the Commission on the Handicapped.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 348E-2, Hawaii Revised Statutes, is amended to read:

"§348E-2 **Commission on the handicapped.** There is established the commission on the handicapped within the department of health for administrative purposes, to be composed of [twenty-one] fifteen members to be appointed by the governor for staggered terms subject to section 26-34. The members of the commission shall include at least nine persons who are either handicapped persons representative of various handicapping conditions, parents, or guardians of handicapped persons [and shall also include]. [the] The directors of health, social services, labor and industrial relations, [and] personnel services, transportation, the comptroller, the superintendent of education, and the president of the University of Hawaii [who] shall be ex-officio nonvoting members. The members

appointed shall include at least one resident from [each of] the counties[.] of Honolulu, Hawaii, Maui, and Kauai. Eight voting members shall constitute a quorum to do business and a concurrence of the majority of the voting members of the quorum shall be necessary to validate any act of the commission.

The members shall serve without compensation but shall be reimbursed their necessary and reasonable expenses incurred in the performance of their duties, including travel expenses. The chairman shall be elected annually by the members; provided that only nongovernmental members shall be elected chairman; and provided further that no member may serve as chairman for more than two consecutive years.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-29, Hawaii Revised Statutes, is amended to read:

"§383-29 Eligibility for benefits. (a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.
- (3) Availability. He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the

amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.

- (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.
 - (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for services:
 - (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
 - (D) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer.
- (b) (1) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not

successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performed such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any institution of education in the second of such academic years or terms.

- (2) Benefits based on service in any other capacity for any educational institution shall not be paid to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that, if compensation is denied to any individual under this subsection and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause.
- (3) Benefits based on service in any instructional, research or principal administrative capacity in any educational institution or based on other services in any educational institution shall not be paid to any person for any week of unemployment which begins during an established and customary vacation or recess for a holiday if the person performs service in the period immediately preceding the vacation or recess and there is reasonable assurance that he will be provided employment immediately succeeding the vacation or recess.
- (4) The provisions of paragraphs (1), (2), and (3) apply also to services performed while employed by a governmental agency which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(c) Benefits based on services, substantially all of which consists of participating or preparing or training to participate in sports or athletic events, shall not be paid to an individual for any week of unemployment which begins during the period between two successive sport seasons (or similar periods) if the individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that the individual will perform such services in the second of such seasons (or similar periods).

(d) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for

permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(e) Notwithstanding any provisions of this chapter to the contrary, a claimant shall not be denied benefits because of his regular attendance at a vocational training or retraining course which the director of labor and industrial relations has approved and continues from time to time to approve for the claimant. The director may approve such course for a claimant only if:

- (1) Reasonable employment opportunities for which the claimant is fitted by training and experience do not exist in the locality or are severely curtailed;
- (2) The training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the locality;
- (3) The training course is offered by a competent and reliable agency; and
- (4) The claimant has the required qualifications and aptitudes to complete the course successfully."

SECTION 2. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 202

H.B. NO. 1785-84

A Bill for an Act Relating to Dispensing Opticians.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 458-1, Hawaii Revised Statutes, is amended to read as follows:

"§458-1 Dispensing optician defined. An individual or firm is deemed to be engaged in the occupation or business of dispensing optician [who] when the individual or firm prepares and dispenses lenses, spectacles, eyeglasses, or appurtenances thereto to the intended wearer thereof on written prescription

from physicians or optometrists duly licensed to practice their professions, and in accordance with the prescriptions interprets, measures, adapts, fits, and adjusts the lenses, spectacles, eyeglasses, or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eyes.”

SECTION 2. Section 458-4, Hawaii Revised Statutes, is amended to read as follows:

“§458-4 Application for certificate of dispensing optician. Before engaging or continuing in the occupation of dispensing optician individuals shall first apply for and be granted certificates of dispensing opticians by the board of dispensing opticians. Applications for such registration shall be on forms prescribed by the board, and shall bear the signature of the individual. The application shall contain the name under which the applicant proposes to do business, and the business address. Before engaging or continuing in the business of dispensing optician, firms shall first apply for certificates of dispensing optician, on forms prescribed by the board, and the application shall be accompanied by the application and registration fees. The application shall bear the signature of the partner if the applicant is a partnership, or president or secretary if the applicant is a corporation; shall contain the name under which the applicant proposes to do business and the business address, and the name of the licensed dispensing optician who shall be employed at that business address. Separate applications shall be made for each place of business, and each application shall be accompanied by a registration fee of \$50. Upon refusal or denial of a certificate upon such application, the board shall refund to the applicant \$25 of the fee.”

SECTION 3. Section 458-6, Hawaii Revised Statutes, is amended to read as follows:

“§458-6 Issuance or denial of certificate of dispensing optician. If the board of dispensing opticians, after examination, approves the application and finds the applicant to be competent and qualified to accurately fill prescriptions for ophthalmic lenses and otherwise to engage in the business of dispensing optician, it shall register the applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine, it shall deny the application. Upon approval the board shall issue certificates of dispensing optician to firms within sixty days. A separate certificate is required for each address where the business is to be conducted. No application for certificate of dispensing optician shall be approved unless a licensed dispensing optician is employed at each place of business. The certificate shall authorize the applicant to engage in the business of dispensing optician. The certificate shall be at all times displayed in a conspicuous place at the place of business licensed. The certificate shall not be transferrable.”

SECTION 4. Section 458-13, Hawaii Revised Statutes, is amended to read as follows:

“§458-13 Acts prohibited. It shall be unlawful to do any of the following:

- (1) To engage in the business of dispensing optician without first having been issued a certificate of dispensing optician under this chapter[;], or to engage in the business of dispensing optician without employing a certificate holder at each place of business;
- (2) To advertise in any manner that would tend to mislead or deceive the public;
- (3) To furnish the services of an optometrist, physician, or surgeon or directly or indirectly employ or maintain on or near the premises used for optical dispensing any optometrist, physician, or surgeon, or the practitioner of any other profession for the purpose of any examination or treatment of the eyes;
- (4) To dispense, furnish, or supply the services and appliances relating to the business of dispensing optician to the intended wearer or user thereof, except upon a prescription issued by a licensed physician, surgeon, or optometrist; provided, that duplications, replacements, reproductions, and repetitions, without change in the refractive value may be done without prescription by individuals or firms holding a certificate of dispensing optician issued under this chapter;
- (5) To fit or duplicate, or offer, undertake, or attempt to fit or duplicate hard and soft contact lenses or artificial eyes except under the written orders and personal supervision of an ophthalmologist or optometrist;
- (6) For a dispensing optician to grant, allow, credit, or pay, directly or indirectly, openly or secretly, any price differential, rebate, refund, discount, commission, credit, kickback, or other [such] allowance, whether in the form of money or otherwise, to any [such] oculist, optometrist, physician, surgeon, or practitioner of any other profession (A) for or on account of the referring or sending by any [such] oculist, optometrist, physician, surgeon, or practitioner to the dispensing optician of any person for the rendition of any of the services performed or articles or appliances furnished by a dispensing optician as described in section 458-1, or (B) for or on account of the rendition of any [such] services or the furnishing of any [such] articles or appliances to a person so referred or sent by any [such] oculist, optometrist, physician, surgeon, or practitioner. Every [such] scheme, agreement, undertaking, arrangement, or device shall also be deemed in violation of section 481-7. The

certificate of every dispensing optician who violates this subsection shall be revoked."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 203

H.B. NO. 1828-84

A Bill for an Act Relating to Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-51, Hawaii Revised Statutes, is amended by amending the definition of "special facility" to read:

- "(1) "Special facility" means one or more buildings, structures, or facilities on land owned by the State for maritime and marine operations, including cargo handling and control; storage, repair, maintenance, and servicing of marine and marine-related equipment; processing and canning of fish and fish products; and offices and accommodations for the personnel and employees of persons engaged in maritime and maritime-related operations which are the subject of a special facility lease."

SECTION 2. Section 266-52, Hawaii Revised Statutes, is amended to read as follows:

"[]§266-52[]] **Powers.** In addition and supplemental to the powers granted to the department by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplement thereto whereby the department agrees with another person engaged in maritime and maritime-related operations to construct, acquire, [or] remodel [and], furnish, or equip a special facility solely for the use by such other person to a special facility lease; provided that such special facility lease may be amendatory and supplemental to an existing lease between the department and such other person for the land upon which the special facility which is the subject of such special facility lease is to be situated.
- (2) With the approval of the governor, issue special facility revenue bonds in such principal amounts as may be necessary to yield the amount of the cost of any construction, acquisition, remodeling,

[furnishings,] furnishing, and equipping of any special facility; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this paragraph shall not exceed [\$20,000,000;] \$50,000,000.

- (3) Perform and carry out the terms and provisions of any special facility lease.
- (4) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, [or] remodel [and], furnish, or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease.
- (5) Construct any special facility on land owned by the State.
- (6) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by such other person. Neither such undertaking by such other person nor the acceptance by the department of a contract theretofore entered into by such other person therefor, shall be subject to section 103-22."

SECTION 3. Section 266-56, Hawaii Revised Statutes, is amended to read as follows:

"[[]§266-56[]] **Limitation on bond issuance.** No special facility revenue bonds shall be issued under this part after [June 30, 1983.] June 30, 1987."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 204

H.B. NO. 1880-84

A Bill for an Act Relating to Foreclosures.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 667, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§667- **Foreclosure notice.** Notwithstanding any law or agreement to the contrary, any person who forecloses on a condominium apartment shall notify, by way of registered or certified mail, the association of apartment owners of the condominium in which the apartment to be foreclosed is located, of the foreclosure at the time foreclosure proceedings are begun. The notice, at a

minimum, shall identify the condominium apartment which is the subject of the foreclosure and identify the name or names of the person or persons bringing foreclosure proceedings. This section shall not apply when the condominium association is a party in a foreclosure action. This section shall not affect civil proceedings against parties other than the association of apartment owners.”

SECTION 2. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun prior to the effective date of this Act.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 205

H.B. NO. 1882-84

A Bill for an Act Relating to Agreements of Sale.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 501, Hawaii Revised Statutes is amended by adding a section to be appropriately designated and to read as follows:

“§501- Agreements of sale; priority. (a) The rights of a buyer under an agreement of sale which has been duly filed and noted on the certificate of title in accordance with this chapter shall be entitled to priority over the claim of any other person with respect to the real estate covered by the agreement of sale where such claim results:

- (1) From a conveyance made to the claimant by the seller of the real estate covered by the agreement of sale if such conveyance was filed after the filing of the agreement of sale; or
- (2) From a judgment in favor of the claimant against the seller affecting the real estate covered by the agreement of sale if the judgment or a notice of the action out of which the judgment arises was not filed prior to the filing of the agreement of sale.

(b) Upon the buyer’s satisfaction of the agreement of sale, any person who shall have such a claim resulting from such a conveyance or such a judgment, if such claim is subject to prior rights of the buyer as set forth in subsection (a), shall deliver to the holder of the buyer’s interest in the agreement

of sale a release of any interest which the claimant may have in the real estate covered by the agreement of sale.

(c) Notwithstanding subsections (a) and (b), nothing in this section shall impair or waive any valid legal defense of the claimant to such release.

(d) For purposes of this section, the following definitions apply:

“Agreement of sale” means an executory contract for the sale and purchase of real estate which binds one party to sell and the other party to buy real estate which is the subject matter of the transaction, and in which the seller retains legal title to the real estate. As used in this section, an agreement of sale includes a subagreement of sale or subsequent subagreement of sale.

“Buyer” means the party who has agreed to purchase, and “seller” means the party who has agreed to sell the real estate pursuant to an agreement of sale, and includes each of their respective assignees and successors in interest in the agreement of sale.

“Conveyance” means every written instrument by which any estate or interest in real estate is voluntarily created, alienated, mortgaged, or encumbered, or by which title to any real estate may be voluntarily affected, other than wills.

“Filed” or “filing” means filed in accordance with this chapter.

“Real estate covered by the agreement of sale” means the real estate which the seller has agreed to sell and the buyer has agreed to buy pursuant to the agreement of sale, including any portion of or any interest in such real estate.

“Release” includes a transfer of title to the real estate where the claimant has succeeded to the seller’s title and to the seller’s obligation to transfer title to the buyer upon satisfaction of the agreement of sale.

“Satisfaction of agreement of sale” means the full performance of the buyer’s obligations under the agreement of sale, and:

- (1) The buyer’s compliance or tender of compliance with all of the buyer’s written agreements and written consents with claimants whose claims are superior or subject to the rights of the buyer, and with all written directions of the seller to the buyer to make payments under the agreement of sale to a claimant or claimants;
- (2) The buyer’s compliance or tender of compliance with all orders of any court of competent jurisdiction relating to the agreement of sale or to payments under or proceeds of the agreement of sale; and
- (3) The buyer’s payment of all periodic, interim, prepaid, and final payments under the agreement of sale, either:
 - (A) Directly to the claimants who notify the buyer of their claimed right to such payments, according to the priority of the claims to the seller’s interest in the real estate, to the extent of such payments or such claims, whichever is less; or

- (B) Into an escrow account with a licensed escrow company together with the buyer's irrevocable written instructions to hold such payments and disburse them to claimants according to such priority as the claimants agree to or establish among themselves, to the extent of such payments or such claims, whichever is less.

If a claimant delivers a release as required by subsection (b) pursuant to payment into such escrow by the buyer, before the claimant actually receives satisfaction of the claim, the claim shall be automatically transferred to the payments so held in escrow in the same priority as to other claimants as existed before the release."

SECTION 2. Chapter 502, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"§502- Agreements of sale; priority. (a) The rights of a buyer under an agreement of sale which has been duly recorded in accordance with this chapter shall be entitled to priority over the claim of any other person with respect to the real estate covered by the agreement of sale where such claim results:

- (1) From a conveyance made to the claimant by the seller of the real estate covered by the agreement of sale if such conveyance was recorded after the recordation of the agreement of sale; or
- (2) From a judgment in favor of the claimant against the seller affecting the real estate covered by the agreement of sale if the judgment or a notice of the action out of which the judgment arises was not recorded prior to recordation of the agreement of sale.

(b) Upon the buyer's satisfaction of the agreement of sale, any person who shall have such a claim resulting from such a conveyance or such a judgment, if such claim is subject to prior rights of the buyer as set forth in subsection (a), shall deliver to the holder of the buyer's interest in the agreement of sale a release of any interest which the claimant may have in the real estate covered by the agreement of sale.

(c) Notwithstanding subsections (a) and (b), nothing in this section shall impair or waive any valid legal defense of the claimant to such release.

(d) For purposes of this section, the following definitions apply:

"Agreement of sale" means an executory contract for the sale and purchase of real estate which binds one party to sell and the other party to buy real estate which is the subject matter of the transaction, and in which the seller retains legal title to the real estate. As used in this section, an agreement of sale includes a subagreement of sale or other subsequent subagreement of sale.

"Buyer" means the party who has agreed to purchase, and "seller" means the party who has agreed to sell the real estate pursuant to an agreement of sale,

and includes each of their respective assignees and successors in interest in the agreement of sale.

“Conveyance” means every written instrument by which any estate or interest in real estate is voluntarily created, alienated, mortgaged, or encumbered, or by which title to any real estate may be voluntarily affected, other than wills.

“Real estate covered by the agreement of sale” means the real estate which the seller has agreed to sell and the buyer has agreed to buy pursuant to the agreement of sale, including any portion of or any interest in such real estate.

“Recorded” or “recording” means recorded in accordance with this chapter.

“Release” includes a transfer of title to the real estate where the claimant has succeeded to the seller’s title and to the seller’s obligation to transfer title to the buyer upon satisfaction of the agreement of sale.

“Satisfaction of agreement of sale” means the full performance of the buyer’s obligations under the agreement of sale, and:

- (1) The buyer’s compliance or tender of compliance with all of the buyer’s written agreements and written consents with claimants whose claims are superior or subject to the rights of the buyer, and with all written directions of the seller to the buyer to make payments under the agreement of sale to a claimant or claimants;
- (2) The buyer’s compliance or tender of compliance with all orders of any court of competent jurisdiction relating to the agreement of sale or to payments under or proceeds of the agreement of sale; and
- (3) The buyer’s payment of all periodic, interim, prepaid, and final payments under the agreement of sale, either:
 - (A) Directly to the claimants who notify the buyer of their claimed right to such payments, according to the priority of the claims to the seller’s interest in the real estate, to the extent of such payments or such claims, whichever is less; or
 - (B) Into an escrow account with a licensed escrow company together with the buyer’s irrevocable written instructions to hold such payments and disburse them to claimants according to such priority as the claimants agree to or establish among themselves, to the extent of such payments or such claims, whichever is less.

If a claimant delivers a release as required by subsection (b) pursuant to payment into such escrow by the buyer, before the claimant actually receives satisfaction of the claim, the claim shall be automatically transferred to the payments so held in escrow in the same priority as to other claimants as existed before the release.”

ACT 206

SECTION 3. This Act shall not affect any rights or duties that have matured, penalties that were incurred, or proceedings that were begun prior to the effective date of this Act.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 206

H.B. NO. 1976-84

A Bill for an Act Relating to the Patient Employment Program at Facilities for the Treatment of Persons Suffering from Hansen's Disease.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000, or so much thereof as may be necessary for fiscal year 1983-84, to supplement prior appropriations for the maintenance of current patient hours in the Patient Employment Program of the Hansen's Disease Program within the department of health.

SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 207

H.B. NO. 2032-84

A Bill for an Act Relating to Child Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-52, Hawaii Revised Statutes, is amended by amending the title to read as follows:

"§571-52 Assignment by court order of future wages for [future] payments of support."

SECTION 2. Section 571-52, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding the provisions of subsection (a), [of this section,] whenever a court has ordered any person (hereinafter “obligor”) to make periodic payments toward the support of a minor child and, upon petition of the person to whom such payments are ordered to be made, or that person’s assignee, the court finds the obligor to be delinquent in payments [due within the twenty-four months immediately preceding the filing of the petition] in an amount equal to or greater than the sum of payments which would become due over a [three-month] one-month period under [that] the order, judgment, or decree providing for child support, the court may order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid. Such an order shall operate as an assignment by the obligor to the clerk of the court where the order is entered, and shall be binding upon any person who is or shall become obligated to the obligor for payment of earnings or income and who has been served with a certified copy of the assignment order. For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of [two dollars] \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order [may] shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the [exemption provisions of] exemptions or restrictions contained in part III of chapter 651[.], chapter 652, and chapter 653.

For purposes of this subsection, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.”

SECTION 3. Chapter 571, Hawaii Revised Statutes, is amended to add a new section to be appropriately designated and to read as follows:

“§571- Automatic assignment by court order of future wages for payment of child support. (a) Notwithstanding the provisions of §571-52, the court may order an assignment of future earnings or income when:

- (1) The court has ordered any person (hereinafter the “obligor”) to make periodic payments toward the support of a minor child pursuant to a court order, judgment, or decree; and
- (2) The court order, judgment, or decree provides for an automatic assignment of the obligor’s wages upon the obligor’s failure to

timely pay any child support that the obligor is required to pay through the clerk of the court; and

- (3) The court or clerk of the court finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one month period under the order, judgment, or decree providing for child support.

(b) The court, on its own motion, may order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid.

(c) The court or the clerk of the court shall provide the obligor written notice at least fourteen days in advance of entering an automatic wage assignment and inform the obligor the automatic wage assignment will issue on a certain date unless the obligor files with the court or the clerk of the court a written objection to the automatic assignment and a written request for a hearing. If the obligor files the written objection and the written request, the court or the clerk of the court shall not issue the automatic assignment of future earnings or income until a hearing is held and the matter is resolved. The court shall establish and implement other notice procedures as may be necessary to adequately protect the obligor's right to procedural due process.

(d) The order for automatic assignment shall operate as an assignment by the obligor to the clerk of the court where the order is entered, and shall be binding upon any person who is or shall become obligated to the obligor for payment of earnings or income and who has been served with a certified copy of the assignment order.

For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, chapter 652, and chapter 653.

For purposes of this section, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.

(e) The provisions of sections 571-52(c) and (d) shall apply to all orders for automatic assignments issued under this section."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 208

H.B. NO. 2054-84

A Bill for an Act Relating to Pawnbrokers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 445-133, Hawaii Revised Statutes, is amended to read as follows:

"§445-133 Conditions of license; interest, redemption, etc.; records. Every license shall be issued upon these express conditions which shall be set forth in the licenses:

- (1) That the licensee will not charge or receive interest at more than the rate of four per cent a month for any loan under \$20, nor at more than the rate of two per cent a month for any loan above \$20 and under \$100, nor at more than the rate of one per cent a month for any loan above \$100, nor exact any other gain, profit, or reward by charging commissions, discount, storage, or other charge, or by compounding interest or by any device increasing such interest, except a licensee may charge the following:
 - (A) A charge not exceeding \$1 may be made on any loan for not more than 30 days which does not exceed \$14.99;
 - (B) A charge not exceeding \$3 may be made on any loan for not more than 90 days of \$15 or more, but not exceeding \$24.99;
 - (C) A charge not exceeding \$5 may be made on any loan for not more than 90 days of \$25 or more, but not exceeding \$49.99;
 - (D) A charge not exceeding \$7.50 may be made on any loan for not more than 90 days on any loan of \$50.00 or more, but not exceeding \$74.99;
 - (E) A charge not exceeding \$10 may be made on any loan for not more than 90 days of \$75 or more, but not exceeding \$149.99;
- (2) That the licensee will not sell any article pledged to him and unredeemed within six months after the last day fixed by contract for redemption, nor make any such sale without publishing at least

twice in a newspaper published in the county where he does business, or if there is no such newspaper, then in a newspaper published in Honolulu in English, at least ten days, and not more than thirty days, before such sale a notice describing the article, and specifying the time and place of sale;

- (3) That the licensee will disclose to the pledgor or his agent the name of the purchaser and the price received by him for any article so pledged and sold;
- (4) That the licensee will provide each pledgor, on the date the article is pledged, with a written contract signed by the licensee and pledgor both and specifying the terms and conditions under which the article is pledged and may be redeemed, date of commencement of interest on the loan, date of the last day for redemption, amount of the loan, rate of interest on or charge for the loan, and article pledged. One copy of each contract shall be retained by the licensee until the redemption of the article pledged or for one year after an unredeemed article is sold by the licensee;
- (5) That the licensee will provide each pledgor with a receipt on the date the pledgor makes a payment on an outstanding portion, including interest or charge, of a loan. The receipt shall include the amount paid, date of payment, balance outstanding after the payment, and article pledged by the pledgor for the loan. The licensee will not require, as a condition of issuance of a receipt, a pledgor to return a receipt previously issued to the pledgor;
- [(4)] (6) That he will keep a book in which shall be written the date, duration, amount, rate of interest of any loan made by him, an accurate description of the property pledged, and the name and residence of the pledgor[, a copy of which record shall be delivered to the pledgor]. A record of all sales made shall also be entered in the book. No entry in the book shall be erased, mutilated, or changed;
- [(5)] (7) That he will make out and deliver to the chief of police, or his authorized subordinate, of the county in which he carries on business, on or before twelve o'clock noon of the last business day of each week, a true and correct copy of all the entries [hereinabove] required under paragraph (6) to be made by him in the book concerning his transactions for that week and for the period since his last preceding report, which record shall be preserved by the chief of police and shall be open to the inspection of any person upon satisfactory showing to the chief of police that the inspection is desired for a proper purpose;

- [(6)] (8) That he will not receive any article by way of pawn or pledge from any minor, knowingly or with reason to believe such person a minor;
- [(7)] (9) That the books of the licensee, all contracts retained, all accounts of sales, the licensed premises, and all articles therein may at any time be examined by the chief of police or his authorized subordinate or the [treasurer,] director of finance of the county where the licensee transacts business, or by any person [representing] presenting to the licensee a written authorization so to do from the chief of police or his authorized subordinate or the [treasurer,] director of finance; and
- [(8)] (10) That he will forthwith notify the chief of police or his authorized subordinate of the county wherein he carries on business of any offer made by any person to pledge any articles which the licensee has reasonable cause to suspect have been stolen.

The omission of any of the foregoing conditions from the license shall not relieve the licensee from the obligation to comply with this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1985.

(Approved May 30, 1984.)

ACT 209

H.B. NO. 2077-84

A Bill for an Act Relating to Service of Process.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 634-31, Hawaii Revised Statutes, is amended to read as follows:

"§634-31 **Same; nonresidents; service [on director]**. The transaction of any acts, business, or activities within the State by any officer, agent, representative, employee, or member of any such association having officers, agents, members, or property without the State, on behalf of such association, or any of its members or affiliated local associations, shall [be deemed an appointment by the association of the director of commerce and consumer affairs to be the true and lawful attorney of the association, upon whom may be served all legal processes or notices] subject the association and its members to the jurisdiction of the courts of this State in any action or proceeding against or involving the association growing out of the acts, business, or activities within the State giving rise to any cause of action, and the acts, business, or activities

shall be a signification of the agreement of the association and its members that any [such] legal process or notice in any action, matter, or proceeding against or involving it, which is [so] served[,] shall be of the same legal force and validity as if served upon the association and its members personally. Service of such process or notice shall be made by [filing a copy thereof in the office of the director together with payment of a fee of \$10, of which \$5 shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the State, and such service shall be sufficient service upon the association and its members; and notice of the service and a copy of the process or notice shall, within ten days thereafter, be sent by] registered mail [by the director] to the association at its last known address and an affidavit of compliance with this section shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending. The filing shall be deemed service upon the association and its members twenty days after the filing."

SECTION 2. Section 634-33, Hawaii Revised Statutes, is amended to read as follows:

"[]§634-33[] Service in cases of operation of motor vehicles. The use and operation by any person, whether a resident or a nonresident of the State, of any motor vehicle upon a public highway in this State [is deemed equivalent to an appointment by such person of the director of commerce and consumer affairs of the State to be his true and lawful attorney upon whom may be served the summons] shall subject the person to the jurisdiction of the courts of this State in any action or proceeding against him growing out of any accident or collision in which the person and the motor vehicle so used and operated may be involved. The use and operation of the motor vehicle is deemed a signification of his agreement that any [such] summons against him which is [so] served is of the same legal force and validity as if served upon him personally within this State, whether the person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State. Service of such summons is to be made as provided by section 634-36, if the defendant cannot be found in the State.

This section shall not be construed as repealing or amending any other provision of law relating to the service of process nor as establishing an exclusive method of service of process in cases to which this section may apply."

SECTION 3. Section 634-34, Hawaii Revised Statutes, is amended to read as follows:

"[]§634-34[] Service on boat operators. The operation, navigation, use, or maintenance by any person, whether a resident or nonresident of the State, of any boat, ship, barge, or other watercraft in the navigable waters of the

State [of Hawaii is deemed equivalent to an appointment by such person of the director of commerce and consumer affairs to be his true and lawful attorney upon whom may be served the summons] shall subject the person to the jurisdiction of the courts of this State in any action or proceeding against him growing out of any accident, collision, or claim for damages in which the person and the boat, ship, barge, or other watercraft may be involved in the navigable waters. The operation, navigation, use, or maintenance is deemed a signification of his agreement that any [such] summons against him which is [so] served is of the same legal force and validity as if served upon him personally within this State, whether the person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State. Service of the summons is to be made as provided by section 634-36, if the defendant cannot be found in the State.

This section shall not be construed as repealing or amending any other provision of law relating to the service of process nor as establishing an exclusive method of service of process in cases to which this section may apply.”

SECTION 4. Section 634-36, Hawaii Revised Statutes, is amended to read as follows:

“[[§634-36[]] Manner of service under sections 634-33 to 35. When service of summons is provided for by [sections] section 634-33, 634-34, or 634-35, service shall be made by [leaving a certified copy thereof with the director of commerce and consumer affairs or his deputy, who shall keep a record of each such summons and the day and hour of service, provided that notice of the service and a certified copy of the summons and of the complaint are served] service upon the defendant personally by any person authorized to serve process in the place in which he may be found or appointed by the court for the purpose, or sent by certified or registered mail, postage prepaid, with return receipt requested, by the plaintiff or his attorney to the defendant. The plaintiff or his attorney shall file the return of the serving officer or an affidavit showing that the notice and the copy of summons and complaint were served as aforesaid or sent by certified or registered mail as aforesaid, and in the latter case the return receipt signed by the defendant shall be filed with the affidavit. The service shall be deemed complete upon delivery of the required papers to the defendant outside the State, personally or by mail as provided.

[After service on the director or his deputy, if] If the defendant cannot be found to serve or mail the summons and the facts shall appear by affidavit or otherwise to the satisfaction of the court, it may order that service be made by publication of summons in at least one newspaper published in the State and having a general circulation in the circuit in which the action has been instituted, in such manner and for such time as the court may order, but not less than once each week in four successive weeks, the last publication to be not less

than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 210

H.B. NO. 2179-84

A Bill for an Act Relating to Fences.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-61, Hawaii Revised Statutes, is amended to read as follows:

“§142-61 Lawful fence; penalty. (a) Every fence [shall be deemed a lawful fence which is] made of stone, posts and rails, posts and boards, posts and wire, or other suitable materials[,] shall be a lawful fence, provided that it [be] is not less than four and a half feet in height, substantially built, strong and close, existing in good state of repair, and capable of turning either all stock or all stock excepting swine, attempting to pass through the fence.

(b) Woven wire, or what is otherwise known also as hog-wire, used as a type of wire by itself or with a combination of barbed wire or plain wire, [in any case of which,] when supported on posts and properly fastened thereto[,] and meeting the minimum height and stock turning requirements prescribed [hereinabove] in [this section,] subsection (a), shall be a lawful fence.

(c) The sea, rivers, ponds, and natural perpendicular bluffs, whenever impassable, shall be lawful fences.

(d) Whenever fences are [desired to be] built on any boundary, or within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas[,] or to keep farms protected against the trespass of animals, except on the boundary of any government road, it shall be [deemed] lawful to have fence wire electrically charged, provided such wire is fastened to insulators supported on posts, and provided also that the charge supplied shall be through an approved electric fence controller which shall be labeled or listed as conforming to the standards of either the National Bureau of Standards, the Underwriter's Laboratories, Inc., or any other similar institutions of recognized standing, and provided [also] that an electric fence controller intended for use in the State shall bear a recognized commercial trade name and the name of the selling agency of same.

(e) Whenever fences are built on any boundary, including on the boundary of any government road, within the exterior boundaries of any privately owned land or lot, or within the exterior boundaries of any leased public land or lot, to keep animals confined to certain areas or to keep farms protected against the trespass of animals, it shall be lawful to attach electrically charged attachments to the interior side of the fence; provided that in the case of wire fences, it shall be lawful to attach electrically charged attachments only to the interior side of posts supporting the wire; and provided further that no person shall be subject to injury by the electrically charged attachments while the person is on or touches the exterior side of the fence or fence post.

(f) Any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments not conforming to the requirements of this section shall be fined not more than \$500, or imprisoned not more than one year, or both.

(g) Any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments along the boundary of any government road or within the exterior boundaries of any leased public land or lot shall defend, indemnify, and hold harmless, the State, county, or other public entity from all claims, suits, or judgments arising from the use of an electrically charged fence or fence with electrically charged attachments."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 211

H.B. NO. 2181-84

A Bill for an Act Relating to Landlord and Tenant.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 666, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§666- Rent trust fund. (a) At the request of either the tenant or the landlord in any court proceeding in which the payment or nonpayment of rent is in dispute, the court shall order the tenant to deposit any disputed rent as it becomes due into the court as provided under subsection (c), and in the case of a proceeding in which a rent increase is in issue, the amount of the rent prior to the increase; provided that the tenant shall not be required to deposit any rent where the tenant can show to the court's satisfaction that the rent has already been paid to the landlord; provided further that if the parties had executed a

written instrument agreeing that the rent could be withheld or deducted, the court shall not require the tenant to deposit rent into the fund. No deposit of rent into the fund ordered under this section shall affect the tenant's rights to assert either that payment of rent was made or that any grounds for nonpayment of rent exist under this chapter.

(b) If the tenant is unable to comply with the court's order under subsection (a) in paying the required amount of rent to the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff or to a police officer of the circuit where the premises are situated, ordering the sheriff or police officer to remove all persons and possessions from the premises, and to put the landlord, or the landlord's agent, into full possession of the premises.

(c) The court in which the dispute is being heard shall accept and hold in trust any rent deposited under this section and shall make payments out of money collected as provided in this section. The court shall order payment of the money collected or portion thereof to the landlord if the court finds that the rent is due and has not been paid to the landlord and that the tenant did not have any basis to withhold, deduct, or otherwise set off the rent not paid. The court shall order payment of the money collected or portion thereof to the tenant if the court finds that the rent is not due or has been paid, or that the tenant had a basis to withhold, deduct, or otherwise set off the rent not paid.

(d) The court, upon finding that either the landlord or the tenant raised the issue of payment or nonpayment of rent in bad faith, shall order that person to pay the other party reasonable interest on the rent deposited into the trust."

SECTION 2. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 212

H.B. NO. 2257-84

A Bill for an Act Relating to Child Abuse and Neglect Prevention Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Child abuse and neglect is a serious public health problem in the State of Hawaii, with over 3,000 cases reported annually. Such abuse and neglect often result in serious injuries, including fractures, head injuries, internal injuries, burns, mental retardation, and, in certain cases, even can cause deaths. Abuse and neglect can also result in psychosocial impairment such as emotional disorders, behavior disorders, learning disorders, school dropout, and delinquency.

The perinatal and infancy periods have been recognized as critical periods for identifying parents who are risks in order to provide early intervention. Specific problems addressed within these periods, such as unwanted pregnancy, teenage pregnancy, caesarian section, prematurity, and congenital anomaly, significantly increase the risk of child abuse and neglect.

Perinatal services provide the most effective system for the early identification of potential problems and a context for service delivery which is acceptable to families. Preventive efforts have proven highly cost-effective in reducing predicted levels of abuse and averting the cost of subsequent rehabilitation for children and parents.

The purposes of this Act are to permit the department of health to provide secondary prevention programs in child abuse and neglect and serve as the lead agency for programs which provide for a coordinated range of child abuse and neglect prevention services.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . CHILD ABUSE AND NEGLECT PREVENTION

§321- Definitions. For the purposes of this part:

“Child screening for early identification and remediation of social and health problems” means routine follow up and progress checks for toddlers and preschoolers which include the location and support of isolated parents in need of assistance.

“Department” means the department of health.

“Education for parenthood” means programs to educate all levels of youths as to the needs and appropriate expectations for the different levels of infancy and childhood.

“Home visitor programs” mean services utilizing paraprofessionals or community volunteers for supportive intervention services to parents from the prenatal through infancy periods.

“Infants in need of extra services” include infants who are ill or handicapped or the result of a multiple birth.

“Mutual aid programs” mean peer-support groups for target populations.

“Perinatal bonding” means the process of attachment between parents and newborns around the circumstance of birth.

“Secondary prevention programs” mean programs directed at recognizing, assessing, and achieving change in high risk situations so that abuse and neglect do not occur.

§321- Child abuse and neglect secondary prevention programs. The department may provide secondary prevention programs which contain a continuum of services starting from before birth and ending in education for the adult parenting responsibility. The types of programs to be provided may include but need not be limited to, prenatal, perinatal bonding, interaction with infants, support for parents of infants in need of extra services, home visitor programs, mutual aid programs, child screening for early identification and remediation of social and health problems, and education for parenthood.

§321- Child abuse and neglect secondary prevention advisory committee. (a) There is established within the department for administrative purposes the child abuse and neglect secondary prevention advisory committee. The committee shall consist of seven members appointed by the governor as provided in section 26-34; except that members shall be appointed for three-year terms. The members shall be officers or employees of public and private agencies which provide multidisciplinary intervention services for the secondary prevention of child abuse and neglect.

(b) The advisory committee shall advise the department on implementation of this part.

(c) The advisory committee shall elect its officers.

(d) Members of the advisory committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.”

SECTION 3. Section 321-31, Hawaii Revised Statutes, is amended to read as follows:

“§321-31 Functions of the department. The powers, duties, and functions of the department of health relating to preventive medicine shall be as follows:

- (1) To supervise and coordinate activities in the fields of preventive medicine, including cancer control, crippled children, epidemiology, geriatrics, laboratories, maternal and child health, mental hygiene, nutrition, tuberculosis, and venereal diseases;
- (2) To formulate and put into effect throughout the State an education¹ program for the purposes of preventing disease and alleviating old age;
- (3) To engage in the collection and analysis of statistical information pertinent to any of its activities;

- (4) To cooperate with and propose methods and programs to other governmental agencies relating to the fields of preventive medicine;
- (5) To serve as the coordinating agency for programs which provide for a range of child abuse and neglect prevention services in relation to assessed needs, regardless of whether the programs are conducted by the department, other government agencies, or private organizations and to coordinate the prevention programs with child abuse and neglect treatment services; provided that this paragraph shall not be interpreted to compel a specified level of services; and
- [(5)] (6) To perform such other appropriate functions as may be required."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$20,000, or so much thereof as may be necessary for fiscal year 1984-1985, for the purposes of this Act. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

- 1. Prior to amendment, "educational" appeared here.

ACT 213

H.B. NO. 2281-84

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514A- Managing agents. (a) Every managing agent shall register with the real estate commission. The information required to be submitted shall include, but not be limited to, the name, business address, and phone number of the managing agent. The managing agent shall also show proof of bonding obtained pursuant to section 514A-84.

(b) The real estate commission may reject any registration without hearing if bonding for which proof is shown fails to meet the statutory requirements.

(c) All managing agents doing business in this State on July 1, 1984 shall register with the real estate commission before January 1, 1985. Any person who becomes a managing agent after July 1, 1984 shall register with the commission by January 1, 1985, or not later than one week after becoming a managing agent,

whichever is later. Every managing agent shall pay an initial registration fee of \$25 and a reregistration fee of \$15. Reregistration shall be on a biennial basis. Registration fees shall be placed in the special fund established under section 26-9(m) for compliance resolution.

(d) All funds collected by any managing agent from any condominium project shall be deposited in a financial institution located in the State whose deposits are insured by an agency of the United States government. Records of the deposits shall be disclosed to the real estate commission upon request.

(e) A managing agent employed or retained by one or more condominium projects may dispose of the records of any condominium project which are more than five years old without liability if the managing agent first provides the board of directors of the condominium project affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board of directors within sixty days, which notice shall include an itemized list of the records which the managing agent intends to dispose of.

(f) No person shall knowingly make any false certificate, entry, or memorandum upon any of the books, or records of any managing agent. No person shall knowingly alter, destroy, mutilate, or conceal any books or records of a managing agent.

(g) No managing agent may do business in this State unless the managing agent has a designated agent in the State authorized to act on its behalf, and all records of its managed projects shall be maintained and filed in the State.

(h) Every managing agent shall be considered a fiduciary with respect to any property managed by that managing agent. The managing agent shall keep and disburse funds collected on behalf of the condominium owners in strict compliance with any agreement made with the condominium owners, and in compliance with all applicable laws.

(i) Any person who embezzles or knowingly misapplies client funds received by a managing agent shall be guilty of a class C felony."

SECTION 2. Section 514A-3, Hawaii Revised Statutes, is amended to read as follows:

"§514A-3 Definitions. Unless it is plainly evident from the context that a different meaning is intended, as used herein:

[(1)] "Apartment" means a part of the property intended for any type of use or uses, and with an exit to a public street or highway or to a common element or elements leading to a public street or highway, and may include such appurtenances as garage and other parking space, storage room, balcony, terrace, and patio.

[(2)] "Apartment owner" means the person owning, or the persons owning jointly or in common, an apartment and the common interest appertaining thereto; provided that to such extent and for such purposes,

including the exercise of voting rights, as shall be provided by lease registered under chapter 501 or recorded under chapter 502, a lessee of an apartment shall be deemed to be the owner thereof.

[(3)] "Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and declaration.

[(4)] "Commission" means the real estate commission of the state department of commerce and consumer affairs.

[(5)] "Common elements", unless otherwise provided in the declaration, means and includes:

[(A)] (1) The land included in the horizontal property regime, whether leased or in fee simple;

[(B)] (2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building or buildings;

[(C)] (3) The basements, flat roofs, yards, gardens, recreational facilities, parking areas, and storage spaces;

[(D)] (4) The premises for the lodging or use of janitors and other persons employed for the operation of the property;

[(E)] (5) Central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerators;

[(F)] (6) The elevators, escalators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

[(G)] (7) Such facilities as may be designated as common elements in the declaration; and

[(H)] (8) All other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

[(6)] "Common expense" means and includes:

[(A)] (1) Expenses of operation of the property; and

[(B)] (2) All sums designated common expenses by or pursuant to this chapter, the declaration or the bylaws.

[(7)] "Common interest" means the percentage of undivided interest in the common elements appertaining to each apartment, as expressed in the declaration, and any specified percentage of the common interests means such percentage of the undivided interests in the aggregate.

[(8)] "Common profits" means the balance of all income, rents, profits, and revenues from the common elements remaining after the deduction of the common expenses.

[(9)] "Completion of construction" means the issuance by the appropriate county official of a certificate of completion.

[(10)] "Condominium" means the ownership of single units, with common elements, located on property within the horizontal property regime.

[(11)] "Declaration" means the instrument by which the property is submitted to this chapter, as hereinafter provided, and such declaration as from time to time amended.

[(12)] "Developer" means a person who undertakes to develop a real estate condominium project.

[(13)] "Limited common elements" means and includes those common elements designated in the declaration as reserved for the use of a certain apartment or certain apartments to the exclusion of the other apartments; provided that no amendment of the declaration affecting any of the limited common elements shall be effective without the consent of the owner or owners of the apartment or apartments for the use of which such limited common elements are reserved.

[(14)] "Majority" or "majority of apartment owners" means the owners of apartments to which are appurtenant more than fifty per cent of the common interests, and any specified percentage of the apartment owners means the owners of apartments to which are appurtenant such percentage of the common interests.

"Managing agent" means any person employed or retained for the purposes of managing the operation of the property.

[(15)] "Master deed" or "master lease" means any deed or lease showing the extent of the interest of the person submitting the property to the horizontal property regime.

[(16)] "Operation of the property" means and includes the administration, fiscal management and operation of the property and the maintenance, repair, and replacement of, and the making of any additions and improvements to, the common elements.

[(17)] "Person" means an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

[(18)] "Project" means a real estate condominium project; a plan or project whereby a condominium of two or more apartments located within the horizontal property regime are offered or proposed to be offered for sale.

[(19)] "Property" means and includes the land, whether or not contiguous and including more than one parcel of land, but located within the same vicinity, whether leasehold or in fee simple, to the extent of the interest held therein by the owner or lessee submitting such interest to the horizontal property regime, the building or buildings, all improvements and all structures thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the regime established by this chapter.

[(20)] "To record" means to record in accordance with chapter 502, or to register in accordance with chapter 501.

[(21)] All pronouns used herein include the male, female, and neuter genders and include the singular or plural numbers, as the case may be."

SECTION 3. Section 514A-46, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-46[] Investigatory powers. If the real estate commission has reason to believe that a developer is violating any provision set forth in sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, 514A-, and 514A-85, or the rules [and regulations] of the commission [made] adopted pursuant thereto, the commission may investigate the developer's project or the managing agent and examine the books, accounts, records, and files of the managing agent, or those used in the project of the developer. For the purposes of examination, the developer [is required to] shall keep and maintain records of all sales transactions and of the funds received by him pursuant thereto, and to make them accessible to the commission upon reasonable notice and demand."

SECTION 4. Section 514A-48, Hawaii Revised Statutes, is amended to read as follows:

"[]§514A-48[] Power to enjoin. Whenever the real estate commission believes from satisfactory evidence that any person has violated any of sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A- 68, 514A-69, 514A-, and 514A-85 or the rules [and regulations] of the commission adopted pursuant thereto, it may conduct an investigation on [such] the matter, and bring an action in the name of the people of the State of Hawaii in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof."

SECTION 5. Section 514A-49, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person who, in any respect, violates or fails to comply with any of the provisions set forth in sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, 514A-, 514A-85, or 514A-102 to 514A-106, or who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the real estate commission under sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, 514A-, 514A-85, or 514A-102 to 514A-106, is

guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year, or both.”

SECTION 6. Section 514A-84, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) A managing agent employed or retained for one or more condominium projects shall provide evidence of a fidelity bond in an amount equal to [250] \$500 multiplied by the aggregate number of units covered by all of the agent’s condominium management contracts; provided that the minimum amount of bond required by this subsection shall not be less than [10,000] \$20,000 nor greater than [50,000.] \$100,000.

(c) If a project chooses not to have a managing agent, a fidelity bond in an amount equal to [250] \$500 multiplied by the number of units in the project shall be secured for all [individuals] persons handling the project’s funds; provided that the minimum amount of bond required by this subsection shall not be less than [10,000] \$20,000 nor greater than [50,000.] \$100,000. The association of apartment owners, upon the real estate commission’s request, shall provide evidence of the bond to the commission. The bond shall protect the association of apartment owners against fraudulent or dishonest acts by persons handling the condominium project’s funds.”

SECTION 7. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (m) to read as follows:

“[[(m)]] Every licensed person under any chapter subject to section 26H-4 shall pay upon issuance of a license a fee of \$10 and a subsequent annual fee of \$10, which may be collected biennially or pursuant to rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Any unpaid fee shall accrue and shall be paid by the licensed person upon application for renewal of a license. The director may increase or decrease the annual fee when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be expended by the director’s designated representative for compliance resolution as provided by this subsection. The moneys in the fund shall consist of annual fees collected under this subsection and section 514A-. The director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel. The moneys in the fund may be used to train such personnel as the director finds necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, “compliance resolution” means a determination of whether any licensee under any chapter subject to section 26H-4, has complied with that chapter.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund.”

SECTION 8. This Act does not apply to acts which occurred, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 214

H.B. NO. 2333-84

A Bill for an Act Relating to Exemptions Under the Firearms Laws.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-11, Hawaii Revised Statutes, is amended to read as follows:

“§134-11 Exemptions. Sections 134-6 to 134-9 shall not apply:

- (1) To members of police departments, sheriffs, [members of military and naval forces of the State and of the United States, mail carriers,] and law enforcement officers;
- (2) To members of the armed forces of the State and of the United States and mail carriers whose duties require them to be armed, while in the performance of their respective duties;
- [(2)] (3) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are at, or going to or from their places of assembly, or target practice;
- [(3)] (4) To persons employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;
- [(4)] (5) To aliens employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;

- [(5)] (6) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that state to carry firearms without registration. The governor of the State or his duly authorized representative may enter into compacts with other states to carry out this section.

Nor shall sections 134-2 and 134-3 apply to such firearms or ammunition as are a part of the official equipment of any federal agency."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 215

H.B. NO. 2340-84

A Bill for an Act Relating to Refusal to Provide Identification Under the Statewide Traffic Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291C-172, Hawaii Revised Statutes, is amended to read as follows:

"[§291C-172] **Refusal to provide identification.** Any person detained for a violation of this chapter shall [not wilfully refuse to] provide [his] the person's name[,] and address [and], or any proof thereof, or both, upon the lawful order or direction of any police officer in the course and scope of [his] the officer's duties pursuant to this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 216

H.B. NO. 2396-84

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-23, Hawaii Revised Statutes, is amended to read as follows:

"§444-23 Violation; penalties. (a) Any licensee who violates section 444-9.3 or 444-17(18) shall be fined ~~[\$200]~~ \$500 for the first offense, ~~[\$600]~~ \$1,000 for the second offense, and not less than ~~[\$800]~~ \$1,500 or more than ~~[\$1,000]~~ \$2,000 for any subsequent offense.

(b) Except as provided in subsection (a), any person who violates or fails to comply with any of the provisions of this chapter shall be fined not more than \$5,000."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

ACT 217

H.B. NO. 2484-84

A Bill for an Act Regarding Chapter 421C, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to restate and amend, without substantive change, Chapter 421C, Hawaii Revised Statutes, relating to Consumer Cooperative Associations.

SECTION 2. Section 421C-1, Hawaii Revised Statutes, is amended to read as follows:

"[]§421C-1[] Definitions. Except where the context requires otherwise, wherever used in this chapter:

- (1) "Articles" means, for stock associations, the articles of incorporation of [an] a stock association[.], or, for nonstock associations, the charter of incorporation of a nonstock association.
- (2) "Association" means a [group enterprise incorporated under this chapter.] consumer cooperative association.
- (3) "Consumer cooperative association" means a group enterprise, organized on a cooperative basis and incorporated under this chapter such that:
 - (A) Each member has one vote and only one vote, except as may be altered in the articles or bylaws of a secondary cooperative by provision for voting by member organizations;

- (B) The maximum rate at which any return is paid on share or membership capital is limited; and
- (C) The allocation or distribution of net savings after making provision for such separate funds as may be required or specially permitted by statute, articles, or bylaws, is made to member patrons or to all patrons, in proportion to their patronage; or is allocated in a manner which benefits the general welfare of all of the members of the association.
- [(3)] (4) "Directors" means the board of directors of an association.
- [(4)] (5) "Interest-dividends" means the return on share, membership fee, or membership capital of the association which is limited in accordance with section 421C-19.
- [(5)] (6) "Member" means a member of either a stock or a nonstock association in accordance with section 421C-3.
- [(6)] (7) "Net savings" means the total income of an association minus the costs of operation.
- [(7)] (8) "Patronage refund" means the amount returned to the patrons in proportion to their patronage in accordance with section 421C-25.
- [(8)] (9) "Share or membership capital" refers to the capital paid into an association by a member in accordance with section 421C-3.
- [(9)] (10) "Surplus funds" means funds of an association which may be utilized for capital improvements, emergencies, or other expenditures of the association upon the authorization of the directors as specified in section 421C-25 or as otherwise specified in this chapter."

SECTION 3. Section 421C-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except where otherwise provided, statutes and fees which apply to domestic profit corporations shall apply to stock associations, and statutes and fees which apply to domestic nonprofit corporations shall apply to nonstock associations."

SECTION 4. Chapter 421C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§421C- Articles. (a) Articles shall be signed and acknowledged by each of the incorporators, if natural persons, and by the president and secretary of associations, before any officer authorized to take acknowledgments, and shall contain the following particulars:

- (1) The name of the association which shall contain the term "cooperative" or some abbreviation thereof notwithstanding section 421-5.

- (2) The street address and zip code of its principal office, which shall be in the State.
- (3) The purposes and powers of the association.
- (4) The duration of the association.
- (5) The number, names, titles and residence addresses of the initial officers and directors, or similar officers.
- (6) The names and post office addresses of the incorporators, and if organized with stock, a statement of the number of shares subscribed by each, which shall not be less than one, and the class of shares for which each subscribed;
- (7) If organized with stock, the total authorized number of par value shares and the par value of each share, and if the privilege of subsequent extension of the authorized stock is asked for, the limit of the extension; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and the interest-dividends to which each class shall be entitled;
- (8) If organized without stock, whether the property rights and interest of each member are equal or unequal, if unequal, the rule by which the rights and interest shall be determined.

(b) The articles may also contain any other provisions, consistent with law for regulating the association's business or the conduct of its affairs."

SECTION 5. Section 421C-12, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~421C-12] [Articles;] Bylaws; contents. The [articles] bylaws shall contain:

- [(1)] The name of the association which shall contain the term "cooperative" or some abbreviation thereof notwithstanding section 421-5.
- [(2)] ~~(1)~~ The maximum amount or percentage of capital which may be owned or controlled by one member.
- [(3)] ~~(2)~~ A provision that in all decisions to amend the articles or bylaws, as the case may be, the members shall be informed of [such decision] those decisions at least thirty days in advance through a mailing or a prominent notice at all association locations.
- [(4)] ~~(3)~~ The method and terms of admission to membership and the disposal of members' interests on termination of membership for any reason.
- [(5)] ~~(4)~~ A provision that a majority of directors, or five per cent of the, or two hundred fifty, members, whichever is less, may submit a petition in writing and demand a special membership meeting,

which shall be called by the secretary within thirty days of [such] that demand.

- [(6)] (5) A provision that notice for all meetings shall be made through posting prominent signs at all association locations or by mailing to the last known address of each member or director. Notices for special meetings shall specify the purpose of the meeting.
- [(7)] (6) A provision that associations shall not discriminate on their acceptance of members on a basis of race, gender, religion, income, marital status, or nationality.
- [(8)] (7) A provision that within a specified period of time any action taken by the directors must be referred to the members for approval or disapproval if demanded by petition of at least five per cent of the, or two hundred fifty, members, whichever is less, or by vote of at least a majority of the directors; provided that rights of third parties which have vested between the time of action by the directors and approval or disapproval by the members shall not be impaired."

SECTION 6. Section 421C-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [For the purposes of this section, "groups] Being "organized on a cooperative basis" means being organized such that:

- (1) Each member has one vote and only one vote, except as may be altered in the articles or bylaws of a secondary cooperative by provision for voting by member organizations;
- (2) The maximum rate at which any return is paid on share or membership capital is limited; and
- (3) The allocation or distribution of net savings after making provision for such separate funds as may be required or specially permitted by statute, articles, or bylaws, is made to member patrons or to all patrons, in proportion to their patronage; or is allocated in a manner which benefits the general welfare of all of the members of the association."

SECTION 7. Section 421C-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If a member desires to withdraw from the association or dispose of any or all of the member's holdings therein, the directors shall have the power to purchase [such] those holdings by paying the member out of surplus funds the par value or book value, whichever is less, of any or all of the holdings offered. The directors shall then reissue or cancel the holdings. [A vote of the majority of

the members voting at a regular or special meeting may order the directors to exercise this power to purchase.]”

SECTION 8. Section 421C-28, Hawaii Revised Statutes, is amended to read as follows:

“[**§421C-28**] **Books; [auditing.] review.** (a) Subject to subsection (b), every association shall keep a set of books of the association’s business operations, which shall be [audited] reviewed at the end of each fiscal year by a certified public accountant who shall not be an officer, director, or employee of the association.

(b) Where the annual gross business income of an association amounts to less than \$1,000,000 (which amount shall be adjusted for changes in the Consumer Price Index since the effective date of this chapter), the [audit] review need not be done by a certified public accountant but may be performed by [an auditing] a review committee of two individuals who shall not be employees, plus the association’s treasurer.

(c) A written report of the [audit,] review, which may include a statement of the amount of business transacted with members and the amount transacted with nonmembers, and which shall include a balance sheet of the association’s income and expenses, shall be submitted to the annual meeting of the association.”

SECTION 9. Section 421C-37, Hawaii Revised Statutes, is amended to read as follows:

“**§421C-37 Existing cooperatives.** Any domestic corporation or group operating on a cooperative basis as defined in section 421C-1 [this chapter currently in the State] may elect by a vote of two-thirds of the members present and voting to secure the benefits of and be bound by [these provisions,] this chapter, and shall thereupon file such papers or amend such of its articles and bylaws as are not in conformity with these provisions. A certified copy of any amended articles shall be filed with the director of commerce and consumer affairs and a fee of \$25 shall be paid.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 11. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Mental Health and Substance Abuse.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 334, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§334- State council on mental health and substance abuse. (a) There is established a state council on mental health and substance abuse. The council shall consist of fifteen members appointed by the governor as provided in section 26-34. In making appointments to the council, the governor shall ensure that all service area boards of the State are represented, and that a majority of the members are nonproviders of mental health, substance abuse, or other health services.

The council members shall elect a chairperson. All members shall serve without compensation but shall be paid their necessary expenses in attending meetings of the council.

(b) The council shall advise the department on allocation of resources, statewide needs, and programs affecting two or more service areas. The council shall review and comment on the state plan.

(c) If the department’s action is not in conformance with the council’s advice, the department shall provide a written explanation to the council for its position.

(d) The council shall prepare and submit an annual report to the governor and the legislature on implementation of the state plan. The report presented to the legislature shall be submitted at least ten days prior to the convening of each regular session.

§334- Service area board. (a) A service area board shall be established to advise each service area center. The board shall consist of fifteen members appointed by the governor, who shall serve for a term to be determined by the governor. After the initial appointees, the governor shall fill each vacancy on a board by appointing a member from a list of four persons submitted by that board. The members of the board shall be service area residents and service area providers with a majority being residents and nonproviders of mental health or other health services.

The board members shall elect a chairperson. All members shall serve without compensation but shall be paid their necessary expenses in attending meetings of the board.

(b) The service area center and the board, in consultation with public and private providers, shall participate in the development of service area plans and budgets. The board shall advise the center about service area needs to prevent

mental or emotional disorders and substance abuse, and advise about treatment and rehabilitation needs of those afflicted by these disorders.

(c) If the center chief's actions are not in conformance with the board's planning decisions, the center chief shall provide a written explanation to the board for the chief's position."

SECTION 2. Section 334-2, Hawaii Revised Statutes, is amended to read as follows:

"§334-2 Mental health [program.] system. The department of health shall foster and coordinate a [mental health program in the State and] comprehensive mental health system utilizing public and private resources to reduce the incidence of mental or emotional disorders and substance abuse and to treat and rehabilitate the victims in the least restrictive and most therapeutic environment possible. The department shall administer such [mental health] programs, services, and facilities as may be provided by the State to promote, protect, preserve, care for, and improve the mental health of the people."

SECTION 3. Section 334-3, Hawaii Revised Statutes, is amended to read as follows:

"§334-3 Functions of department in mental health. (a) The department of health [is authorized to] within the limits of available funds within the designated programs, shall promote and provide for the establishment and operation of a community-based mental health [programs which shall include but not be limited to the following:] system responsive to the needs of persons of all ages, ethnic groups, and geographical areas of the State, reflective of an appropriate distribution of resources and services, and monitored and evaluated in terms of standards, goal attainment, and outcomes. The elements of the system shall be defined by departmental rules recognizing the need for at least the following services:

- (1) Informational and educational services to the general public and to lay and professional groups;
- (2) Collaborative and cooperative services with public and private agencies and groups for the prevention and treatment of mental [illness, drug addiction, and alcoholism;] or emotional disorders and substance abuse and rehabilitation of patients;
- (3) Consultation services to the judiciary, to educational institutions, and to health and welfare agencies;
- (4) [Clinical, hospital, and rehabilitation services and facilities for children, adolescents, and adults with mental illness, drug addiction, or alcoholism.] Case management, outreach, and follow-up services;

- (5) Emergency crisis and non-crisis intervention services accessible to residents of all service areas;
 - (6) Community-based, relevant, and responsive outpatient services;
 - (7) Community residential care comprising a comprehensive range of small, homelike, and appropriately staffed treatment and rehabilitation facilities;
 - (8) Short-term psychiatric hospitalization, preferably in facilities where access to other health and medical services are readily available;
 - (9) Intensive psychiatric hospitalization for patients in need of long-term, highly structured, or highly specialized care and treatment and provision of appropriate community resources;
 - (10) Training programs, activities, and staffing standards for the major mental health disciplines and ancillary services; and
 - (11) Rehabilitative services for hospital and community- based individuals who have experienced short- or long- term mental or emotional disorders and substance abuse.
- (b) The department shall[:
- (1) Establish standards and regulations for and license psychiatric facilities;
 - (2) Evaluate preventive and treatment services in the field of mental health within the State;
 - (3) Promote and conduct research, demonstration projects, and studies concerned with the nature, treatment, and consequences of mental illness, drug addiction, and alcoholism within the State;
 - (4) Cooperate with public and private groups, agencies, and institutions in establishing coordinated services to meet the mental health needs of the people;
 - (5) Keep records, statistical data, and other information as may be necessary in carrying out the functions of the mental health program and the provisions of this chapter; and
 - (6) Advocate patients' rights in all psychiatric facilities in the State and investigate any grievances submitted to them by any patient in a psychiatric facility, except as provided in section 334E-2(d). The department shall establish rules and procedures for the purpose of this subsection within one year of the enactment of this subsection and post the rules in a conspicuous manner and accessible place.] revise, refine, and develop the system to ensure optimal responsiveness to the many and varied needs of the people of the State. The development of the system shall be based on a statewide four-year plan which is developed in response to statewide assessments of need, evaluations of services, programs, and facilities, and community expressions of needed services and programs. The plan shall

determine the specific content of the department of health budget for the mental health system. The plan shall be annually monitored and updated.

(c) The department shall specifically:

- (1) Perform statewide assessments of the need for prevention, treatment, and rehabilitation services in the areas of mental or emotional disorders and substance abuse;
- (2) Utilize geographical service areas for the delivery of services in the areas of mental or emotional disorders and substance abuse. These areas shall be defined by catchment boundaries existing as of June 30, 1984. Each statewide four-year plan shall include a review of the effectiveness of the geographical service areas in promoting accessibility and continuity of appropriate care to all residents of that geographical area;
- (3) Establish a service area center in each geographical service area that shall be the focal point for the development, delivery, and coordination of services in that area;
- (4) Ensure statewide and community-based planning for the ongoing development and coordination of the service delivery system as guided by needs assessment data and performance related information;
- (5) Establish standards and rules for psychiatric facilities and their licensing, where applicable;
- (6) Establish standards and rules for services in the areas of mental health and substance abuse treatment, including assurances of the provision of minimum levels of accessible service to persons of all ages, ethnic groups, and geographical areas in the State;
- (7) Ensure community involvement in determining the service delivery arrangements appropriate to each community of the State;
- (8) Cooperate with public and private health, education, and human service groups, agencies, and institutions in establishing a coordinated system to meet the needs of persons with mental or emotional disorders and substance abuse difficulties;
- (9) Evaluate and monitor all services in the fields of mental health and substance abuse where such services are supported fully or in part by state resources;
- (10) Promote and conduct research, demonstration projects, and studies concerned with the nature, prevention, intervention, and consequences of mental or emotional disorders and substance abuse;
- (11) Keep records, statistical data, and other information as may be necessary in carrying out the functions of the mental health system and this chapter;

- (12) Advocate patients' rights in all psychiatric facilities in the State and investigate any grievances submitted to the department by any patient in a psychiatric facility, except as provided in section 334E-2(d). The department shall establish rules and procedures for the purpose of this paragraph within one year after January 1, 1985, and post the rules in a conspicuous manner and accessible place;
- (13) Promote and conduct a systematic program of accountability for all services provided, funds expended, and activities carried out under its direction or support in accordance with sound business, management, and scientific principles;
- (14) Coordinate mental health resources in each service area by the presentation of a mental health systems service plan incorporating the planning of each service area. The service area center and the service area board, in collaboration with private and public agencies serving their population, shall submit recommendations for the statewide four-year plan, including needs assessment, program planning, resource development, priorities for funding, monitoring, and accountability activities;
- (15) Oversee and coordinate service area programs and provide necessary administrative and technical assistance to assist service area programs in meeting their program objectives; and
- (16) Provide staffing to the state council and service area boards to assist in the performance of their functions."

SECTION 4. Section 334-8, Hawaii Revised Statutes, is amended to read as follows:

"§334-8 [Grants-in-aid.] Agreements. In carrying out his duties under this chapter:

- (1) The director of health may enter into agreements with the United States and with other state departments, agencies, and political subdivisions and enter into assistance agreements for services with private [nonprofit] groups, institutions, [or] and corporations and allocate and expend any [fund] funds appropriated for the purposes of such agreements and do all things necessary to accomplish the purposes and provisions thereof.
- (2) The director may require the recipient of any state grant-in-aid to contribute money, facilities, or services to the program or project for which the grant is made.
- (3) (2) The director shall establish standards and review procedures to assure that recipients of state [grants- in-aid] funding provide the services and facilities necessary to accomplish the purposes for which the [grants are made.] funds are provided."

SECTION 5. Section 334-9, Hawaii Revised Statutes, is amended to read as follows:

“§334-9 Rules [and regulations]. The director of health [may make] shall adopt rules [and regulations] in accordance with chapter 91 to carry out this chapter.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 7. This Act shall take effect on January 1, 1985.

(Approved May 31, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 219

S.B. NO. 1115

A Bill for an Act Relating to Collective Bargaining in Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other law to the contrary, if a dispute between a public employer and the exclusive representative of optional appropriate bargaining unit (11), firefighters, or optional appropriate bargaining unit (12), police officers, exists over the terms of an initial or renewed agreement[,] more than ninety working days after written notification by either party to initiate negotiations, either party may give written notice to the board that an impasse exists and the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail to select an impartial third arbitrator within twenty-four working days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the impartial arbitrator shall be selected.

Within five calendar days after receipt of such list, the parties shall alternately strike names therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a complete final offer which shall constitute a complete agreement and shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions it is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall [select the most reasonable of the complete final offers submitted by the parties and shall issue a final and binding decision incorporating that offer without modification.] issue a final and binding decision.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision.

- (1) The lawful authority of the employer.

- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees [generally.] in Hawaii.
- (7) The average consumer prices for goods for services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, factfinding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. The parties may, at any time and by mutual agreement, amend or modify the decision.

Agreements reached pursuant to the decision of an arbitration panel as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs of its selected member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other

provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 220

S.B. NO. 2026-84

A Bill for an Act Relating to Computer Crime.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Legislative intent. The legislature finds and declares that:

(1) Computer-related crime is a growing problem in government as well as in the private sector.

(2) Computer-related crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime.

(3) The opportunities for computer-related crimes in financial institutions, government programs, government records, and other business enterprises through the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the alteration or destruction of computerized information or files, and the stealing of financial information, data, and other assets are great.

(4) Computer-related crime operations have a direct effect on state commerce.

(5) While various forms of computer crime might be the subject of criminal charges based on other provisions of law, it is appropriate and desirable that a supplemental and additional statute be provided which proscribes various forms of computer abuse.

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . COMPUTER CRIMES

§708- Definition of terms in this part. In this part, unless a different meaning plainly is required:

"Access" means to make use of any resources of a computer, computer system, or computer network.

“Computer” means an electronic device which performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a computer system or computer network.

“Computer network” means the interconnection of communication lines with a computer through remote terminals or a complex consisting of two or more computers and includes interconnected remote terminals.

“Computer program” means a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from a computer system.

“Computer software” means a set of computer programs, procedures, or associated documentation concerned with the operation and function of a computer system.

“Computer system” means a set of related or interconnected computer equipment, devices, and software.

“Data” means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

“Financial instrument” includes, but is not limited to, any draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any other computer system representation.

“Property” includes, but is not limited to, financial instruments, data, computer software, computer programs, documents associated with computer systems and computer programs, or copies, whether tangible or intangible, and data while in transit.

“Service” includes, but is not limited to, the use of the computer system, computer network, computer programs, computer software, or data prepared for computer use, data contained within a computer system, or data contained within a computer network.

§708- Computer fraud in the first degree. (1) A person commits the offense of computer fraud in the first degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to devise or execute any scheme or artifice to defraud;
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain money, property, or services by means of embezzlement or

false or fraudulent representations where the value of the money, property, or services exceeds \$2,500; or

- (c) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement exceeds \$2,500.

(2) Computer fraud in the first degree is a class C felony. In lieu of the statutory fine which may be imposed, any person who violates this section may be fined a sum of not more than two times the amount of the fraud.

§708- Computer fraud in the second degree. (1) A person commits the offense of computer fraud in the second degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain money, property, or services by means of embezzlement or false or fraudulent representations, money, property, or services where the value of the money, property, or services exceeds \$100 but is not more than \$2,500; or
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement exceeds \$100 but is not more than \$2,500.

(2) Computer fraud in the second degree is a misdemeanor.

§708- Computer fraud in the third degree. (1) A person commits the offense of computer fraud in the third degree if:

- (a) He accesses or causes to be accessed any computer, computer system, computer network, or any or its parts with the intent to obtain money, property, or services by means of embezzlement or false or fraudulent representations where the value of the money, property, or services is not more than \$100; or
- (b) He accesses or causes to be accessed any computer, computer system, computer network, or any of its parts with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to

wrongfully damage or wrongfully enhance the credit rating of any person where the value of the damage or enhancement is not more than \$100.

(2) Computer fraud in the third degree is a petty misdemeanor.

§708- Unauthorized computer use in the first degree. (1) A person commits the offense of unauthorized computer use in the first degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value exceeding \$10,000.

(2) Unauthorized computer use in the first degree is a class C felony.

§708- Unauthorized computer use in the second degree. (1) A person commits the offense of unauthorized computer use in the second degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value exceeding \$2,500 but not more than \$10,000.

(2) Unauthorized computer use in the second degree is a misdemeanor.

§708- Unauthorized computer use in the third degree. (1) A person commits the offense of unauthorized computer use in the third degree if he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, or computer software, or any data stored therein, with a value of not more than \$2,500.

(2) Unauthorized computer use in the third degree is a petty misdemeanor."

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect July 1, 1984.

(Approved May 31, 1984.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 304-14.6, Hawaii Revised Statutes, is amended to read as follows:

“[]§304-14.6[] National guard and military reservists; tuition waiver. (a) The board of regents shall waive all tuition fees for any qualified enlisted person, warrant or company grade officer (0-1 through 0-3) in the Hawaii national guard or in the reserve components of the army, navy, air force, marine corps, and coast guard of the United States of America who is a resident of the State as defined by the board of regents under section 304-4 and who is an undergraduate student working towards a degree on any campus of the University of Hawaii; provided that the exemption for tuition shall be applicable only for the academic year excluding summer session and courses offered by the college of continuing education and public service which are not directly supported by an appropriation from the state general fund; and provided that the person maintains a satisfactory performance with that person's guard or reserve unit and pursues a course of study at the University of Hawaii campus which satisfies that school's academic requirements.

(b) The Hawaii national guard and the reserve components of the army, navy, air force, marine corps, and coast guard of the United States of America shall establish certification procedures showing maintenance of a satisfactory military performance by a person applying for a tuition waiver herein. To qualify for a tuition waiver, an applicant shall obtain certification by the appropriate national guard or reserve force and present such certification to the University of Hawaii at the time of enrollment.

(c) Tuition waivers granted under this section shall be in addition to any tuition waivers authorized under this chapter.

(d) In the event of enactment of federal legislation providing for similar tuition benefits, any person receiving veterans or federal education benefits shall not be eligible for tuition waiver under this section.

(e) The board of regents may adopt, amend, and repeal rules necessary or desirable to the implementation of this section, subject to [the provisions of] chapter 91.

[(f) This section is repealed effective June 30, 1984.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

A Bill for an Act Relating to Imitation Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

“CHAPTER IMITATION CONTROLLED SUBSTANCES ACT

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

“Controlled substance” means a substance as defined in section 329-1.

“Distribute” means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance.

“Imitation controlled substance” means a substance that is not a controlled substance, which by dosage unit, appearance (including color, shape, size, and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In any case when the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an “imitation controlled substance” (for example in the case of powder or liquid), the court or authority concerned shall consider, in addition to all other logically relevant factors, the following factors as related to representations made in determining whether the substance is an imitation controlled substance:

- (1) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
- (2) Statements made to the recipient that the substances may be resold for inordinate profit;
- (3) Whether the substance is packaged in a manner normally used for illicit controlled substances;
- (4) Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities;
- (5) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud; and
- (6) The proximity of the substances to controlled substances.

“Manufacture” means the production, preparation, or repackaging, labeling, or relabeling, of an imitation controlled substance.

§ -2 Offenses. (a) No person shall manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall be guilty of a misdemeanor.

(b) No person eighteen years of age or over shall violate section -2(a) by distributing an imitation controlled substance to a person under eighteen years of age. Any person who violates this subsection shall be guilty of a class (C) felony.

(c) No person shall use, or possess with intent to use, an imitation controlled substance. Any person who violates this subsection shall be guilty of a petty misdemeanor, except that possession of a substance imitating a controlled substance which is subject to section 712-1249 shall constitute a violation.

(d) No person shall place in any newspaper, magazine, handbill, or other publication, or post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this subsection shall be guilty of a misdemeanor.

(e) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under chapter 329 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo by a registered practitioner in the course of professional practice or research.

§ -3 Forfeiture. All imitation controlled substances are subject to forfeiture according to the procedures set forth in section 701-119."

SECTION 2. If any provision of this Act or the application of the Act to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 223

H.B. NO. 1185

A Bill for an Act Relating to a Public Guardianship Agency.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER OFFICE OF THE PUBLIC GUARDIAN

§ -1 Office of public guardian; establishment; appointment. There is established the office of the public guardian in the judiciary. The chief justice shall appoint the public guardian, who shall serve at the chief justice’s pleasure.

§ -2 Powers and duties. (a) The public guardian shall serve as guardian, limited guardian, testamentary guardian, or temporary guardian of the person of an incapacitated person when so appointed by the family court under chapter 560. The public guardian may file a petition for the public guardian’s own appointment.

(b) The public guardian shall have the same powers and duties as a private guardian.

(c) The public guardian shall assist the court, as the court may request or direct, in proceedings for the appointment of a guardian of the person and in the supervision of persons, corporations, or agencies which have been appointed as guardians of the person.

(d) The public guardian shall advise and assist persons, corporations, and agencies which are seeking appointment as a guardian for an incapacitated person. The public guardian shall also provide advice, information, and guidance to the persons, corporations, or agencies who have been appointed as guardian of the person to assist them in the discharge of their duties.

(e) The public guardian may offer guidance and counsel, without court appointment as guardian, to those persons who request such assistance or to those on whose behalf it is requested for the purpose of encouraging maximum self-reliance and independence of such persons and avoiding the need for appointment of a guardian.

(f) The public guardian shall develop programs of public education on guardianship and alternatives to guardianship and encourage the development of private guardians able and willing to serve as guardian of the person.

§ -3 When not appointed. The public guardian shall not be appointed if another suitable guardian is available and willing to accept the guardianship appointment, unless the court finds that the best interests of the ward would be better served by the appointment of the public guardian.

§ -4 Court costs. In any proceeding for appointment of a public guardian, the court may waive any court costs or filing fees.

§ -5 Fees for services; when not allowed. (a) The public guardian may receive such reasonable fees for services as public guardian as the court allows.

(b) No fees shall be allowed which would unreasonably diminish the ward’s estate so as to endanger the ward’s financial independence, and no fees shall be allowed when the ward’s primary source of support derives from public funds.

(c) Any fees received under this section by the public guardian shall be deposited in the state general fund.

(d) No fees shall accrue to the individual benefit of the public guardian.

§ -6 **Rules.** The public guardian shall make such rules as may be necessary to carry out its duties.

§ -7 **Annual report.** The public guardian shall prepare and submit an annual report to the chief justice and render such other reports as the chief justice may from time to time require.

§ -8 **Funding.** Funding for the office of the public guardian shall be included in the budget of the judiciary.

§ -9 **Contracts.** The public guardian may make and enter into contracts, and generally do all such things as in its judgment may be necessary, proper, and expedient in accomplishing its duties."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 224

H.B. NO. 1800-84

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 7 of Act 50, Session Laws of Hawaii 1979, as amended by Section 2 of Act 13, Special Session Laws of Hawaii 1981, is amended to read:

"SECTION 7. Issuance of revenue bond; amount authorized. Revenue bonds may be issued by the authority pursuant to part III, chapter 39, and part II, chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed [\$475,000,000] \$875,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs in part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible loans."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 225

H.B. NO. 2294-84

A Bill for an Act Relating to Special Purpose Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance with the approval of the governor, is authorized to issue special purpose revenue bonds in the amounts set forth below to assist Kuakini Medical Center, a not-for-profit corporation that provides health care facilities to the general public, in financing or refinancing, or both, of the following projects:

1. Expansion of acute medical/surgical beds in Hale Pulama Mau (the certificate of need application for this project was approved by the state health planning and development agency on July 5, 1983). \$2,000,000
2. Renovation of the third floor of Hale Kuakini (the certificate of need application is being considered presently by the state health planning and development agency). \$3,000,000

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is authorized to issue from time to time refunding special purpose revenue bonds authorized in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 226

H.B. NO. 2409-84

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds for the Pohai Nani Good Samaritan Kauhale Health Care Facility for the Elderly.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the health and welfare of the State's elderly deserve serious consideration, attention, and assistance from the state government. The Pohai Nani Good Samaritan Kauhale, a retirement and health care facility, located in Kaneohe, Oahu, is a private institution which has been providing residential and health care services to the elderly for the past twenty years.

The legislature further finds that due to recent increases in costs of financing improvements to and long-term refinancing costs for the retirement facility, the Evangelical Lutheran Good Samaritan Society, a nonprofit corporation and owner of the facility, has been forced to raise rents and fees by approximately twelve per cent a year in recent years. The current and potential rent increases will cause serious economic hardships on the elderly residents by either pricing health care services at extremely high rates or beyond their ability to pay for the services. The legislature finds it in the public interest that appropriate governmental measures be implemented to ameliorate this situation.

The legislature further finds that chapter 39A, part II, Hawaii Revised Statutes, permits the State to financially assist nonprofit corporations providing health care facilities to the general public by issuing special purpose revenue bonds. The legislature also finds that, since the Evangelical Lutheran Good Samaritan Society is a nonprofit corporation providing health care facilities for the elderly, it would be appropriate and in the public interest to assist this corporation. Financial assistance by issuing special purpose revenue bonds will:

- (1) Result in lower costs of financing improvements to the Pohai Nani Good Samaritan Kauhale and in lower long-term refinancing costs for the Society since the special purpose revenue bonds will bear a lower interest rate than that charged by private lenders; and
- (2) Reduce the need to charge higher rents and fees for elderly residents of Pohai Nani Good Samaritan Kauhale.

The legislature further finds that issuing special purpose revenue bonds for the purpose of financing the cost of making improvements to, and securing additional long-term refinancing for the retirement and health care facility will assist in making health care services available to the State's elderly at affordable prices and is, therefore, in the public interest.

SECTION 2. The department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in the sum of \$3,000,000, or so much thereof as may be necessary, to finance improvement costs, and secure additional refinancing for the Pohai Nani Good Samaritan Kauhale health care facility.

SECTION 3. The legislature directs the department of budget and finance to conduct all reviews and impose all safeguards provided in chapter

39A, part II, Hawaii Revised Statutes, to ensure that the purposes for which the special purpose revenue bonds are authorized are met.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 227

H.B. NO. 1681-84

A Bill for an Act Relating to Boards and Commissions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 78-4, Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

“(a) Any other provision of law to the contrary notwithstanding, no person shall be allowed to serve on more than one state board or commission [of a public character,] expressly created by a state statute [the State] or [any of its political subdivisions.] the state constitution.”

SECTION 2. Section 8-5, Hawaii Revised Statutes is amended to read:

“§8-5 **King Kamehameha celebration commission.** (a) There shall be a commission to be known as the King Kamehameha celebration commission which shall consist of [twenty-two] eighteen members to be appointed by the governor in the manner provided by section 26-34, such appointments to be made from the following organizations, with at least one member from each organization:

- (1) The Order of Kamehameha of Hawaii;
- (2) Ahahui Kaahumanu;
- (3) Hale o Na Alii o Hawaii Ahahui poo;
- (4) Daughters and Sons of Hawaiian Warriors;
- (5) Daughters of Hawaii;
- (6) Kamehameha Schools Alumni Association;
- [(7) Hui Opio;
- (8)] (7) State Association of Hawaiian Civic Clubs;
- [(9) Airport Lei Sellers' Association;
- (10)] (8) Waimanalo Homesteaders' Association;
- [(11)] (9) Kapahulu Music Club;
- [(12) Nanakuli Homesteaders' Association;
- (13) Native Sons and Daughters of Hawaii;
- (14)] (10) Hui Holo Pa-u Me Na Hoa Hololio;
- [(15)] (11) Papakolea Community Association;
- [(16)] (12) Hui Kukakuka.

In addition, the governor shall appoint one member from each of the following islands: Kauai, Maui, Molokai, Oahu, and Hawaii. Each of these members shall be a resident of the respective island that he or she represents. Also, there shall be one at-large member.

(b) The terms of all appointments shall be four years. The governor shall appoint the [chairman] chairperson of the commission from among the members.

(c) The members of the King Kamehameha celebration commission shall serve without compensation, but shall be entitled to reimbursement for travel and necessary expenses while attending meetings and while in discharge of their duties. The funds appropriated for the purposes hereof shall be disbursed on warrants of the State comptroller, based on vouchers approved by the [chairman] chairperson of the commission.

(d) The commission shall have charge of all arrangements for the celebration each year generally observed throughout Hawaii Nei on June 11, to commemorate the memory of the great Polynesian Hawaiian warrior and statesman King Kamehameha I, who united the Hawaiian Islands into the Kingdom of Hawaii, and recognized as such under section 8-1. The commission may appoint committees and delegate such powers and duties to such committees as it shall determine.

(e) The commission may accept donations of money and personal property. There is created in the treasury of the State a special fund to be known as the King Kamehameha celebration fund, into which all [monies] moneys donated or appropriated by the legislature to the commission shall be deposited and from which the expenses of the commission to carry out the purpose of this section shall be paid. The [monies] moneys appropriated by the legislature to the King Kamehameha celebration fund and not expended within the fiscal year or years shall not lapse but such [monies] moneys shall be retained in [said] a fund for use by the commission in subsequent years. Disbursement of [monies] moneys from said fund shall be by State warrants issued in accordance with applicable laws and [regulations] rules and based on vouchers signed by the [chairman] chairperson of the commission.

(f) The commission shall be the coordinating agency for all state sponsored as well as other celebration events staged during the celebration period as designated by the commission to assure activities planned are timely and appropriate to commemorate the memory of King Kamehameha I.

(g) The commission shall adopt rules pursuant to chapter 91 necessary for the purpose of this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 228

H.B. NO. 1726-84

A Bill for an Act Relating to Deposits to Accompany Bids.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-28, Hawaii Revised Statutes, is amended to read as follows:

"§103-28 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check, or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings and Loan Insurance Corporation, in a sum not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check, or certified check shall be in a sum not less than \$2,500, plus two per cent of the amount in excess of \$50,000. A certificate of deposit, cashier's check, or certified check may be utilized only to a maximum of [\$40,000.] \$100,000.

A bid deposit for a bid requiring a deposit in excess of [\$40,000] \$100,000 shall [only] be in the form of legal tender or a surety bond conforming to the requirements of section 103-31."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 229

H.B. NO. 1746-84

A Bill for an Act Relating to Employment Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-68, Hawaii Revised Statutes, is amended to read as follows:

"§383-68 Contribution rate schedules; fund solvency rate schedule; rates based on experience. (a) Before December 31 of each year through calendar year 1975 the contribution rate schedule applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund, in accordance with the provisions of this subsection and subsection (b) [of this section]. If the current reserve fund is less than the adequate reserve fund, contribution rate schedule I in subsection (b) [of this section] shall apply; if the current reserve fund equals or exceeds the adequate reserve fund but is less than 1.5 times the adequate reserve fund, contribution rate schedule II in subsection (b) [of this section] shall apply; and if the current reserve fund equals or exceeds 1.5 times the adequate reserve fund, contribution rate schedule III in subsection (b) [of this section] shall apply. If, however, the total assets of the fund available for the payment of benefits at the end of a calendar year, or calendar quarter, are \$15,000,000 or more but less than \$20,000,000, the applicable contribution rate schedule for the following calendar year, or remaining calendar quarters in the calendar year, as the case may be, shall be contribution rate schedule I, and if the assets are less than \$15,000,000 at the end of a calendar year, or calendar quarter, this subsection and subsection (b) [of this section] shall not apply during the following calendar year, or remaining calendar quarters in the calendar year, as the case may be.

(b) Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's contribution rate for any calendar year through December 31, 1976 shall be that rate which appears on the same line as his reserve ratio for the year in the contribution rate schedule applicable for the year as specified in subsection (a) [of this section].

CONTRIBUTION RATE SCHEDULE

Employer Reserve Ratio	Contribution Rate		
	Schedule I	Schedule II	Schedule III
.1000 or more	.8 per cent	.4 per cent	.2 per cent
.0950 - .0999	1.0 per cent	.6 per cent	.4 per cent
.0900 - .0949	1.2 per cent	.8 per cent	.6 per cent
.0850 - .0899	1.4 per cent	1.0 per cent	.8 per cent
.0800 - .0849	1.6 per cent	1.2 per cent	1.0 per cent
.0750 - .0799	1.8 per cent	1.4 per cent	1.2 per cent
.0700 - .0749	2.0 per cent	1.6 per cent	1.4 per cent
.0650 - .0699	2.2 per cent	1.8 per cent	1.6 per cent
.0600 - .0649	2.4 per cent	2.0 per cent	1.8 per cent
.0550 - .0599	2.6 per cent	2.2 per cent	2.0 per cent
.0500 - .0549	2.8 per cent	2.4 per cent	2.2 per cent
.0450 - .0499	2.8 per cent	2.6 per cent	2.4 per cent
.0400 - .0449	2.8 per cent	2.8 per cent	2.6 per cent
.0350 - .0399	2.8 per cent	2.8 per cent	2.8 per cent
Less than .0350	3.0 per cent	3.0 per cent	3.0 per cent

(c) For calendar [year] years 1979 [and for each calendar year thereafter] through 1984 the contribution rate of any employer eligible for a reduced rate in accordance with [the provisions of] section 383-66(2) shall be the sum of his basic contribution rate for such year determined pursuant to paragraph (1) of this subsection and the fund solvency contribution rate determined for such year pursuant to paragraph (2) of this subsection; except that no employer's contribution rate shall be less than zero, no employer's contribution rate shall be greater than four and one-half [(4.5)] (4-1/2) per cent for calendar years 1979 through 1984, and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.

- (1) Subject to the requirements of sections 383-63 through 383-67 and section 383-69, an employer's basic contribution rate for a calendar year shall be that rate which appears on the same line as his reserve ratio for the year in the basic contribution rate schedule set forth in this paragraph.

BASIC CONTRIBUTION RATE SCHEDULE

Reserve Ratio	Contribution Rate
.1500 and over	.2 per cent

.1400 - .1499	.4 per cent
.1300 - .1399	.6 per cent
.1200 - .1299	.8 per cent
.1100 - .1199	1.0 per cent
.1000 - .1099	1.2 per cent
.0900 - .0999	1.4 per cent
.0800 - .0899	1.6 per cent
.0700 - .0799	1.8 per cent
.0600 - .0699	2.2 per cent
.0500 - .0599	2.6 per cent
0 - .0499	3.0 per cent
Less than 0	4.5 per cent

- (2) Before December 31 of each year the fund solvency contribution rate applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent adequate reserve fund. The fund solvency contribution rate for a calendar year shall be that rate which appears on the same line as the ratio (rounded to the nearest hundredth) of the current reserve fund to the adequate reserve fund in the fund solvency contribution rate schedule set forth in this paragraph.

FUND SOLVENCY CONTRIBUTION RATE SCHEDULE

Ratio of Current Reserve Fund to Adequate Reserve Fund	Fund Solvency Contribution Rate
2.00 or more	- .5 per cent
1.50 to 1.99	- .2 per cent
1.00 to 1.49	0
.90 to .99	+ .4 per cent
.80 to .89	+ .8 per cent
.60 to .79	+ 1.2 per cent
.40 to .59	+ 1.6 per cent
.20 to .39	+ 2.0 per cent
Less than .20	+ 2.4 per cent

(d) For calendar year 1985 and for each calendar year thereafter the contribution rate of any employer eligible for a reduced rate in accordance with section 383-66(2) shall be the sum of the employer's basic contribution rate for such year determined pursuant to this subsection and the fund solvency contribution rate determined for such year pursuant to subsection (c)(2); except that no employer's contribution rate shall be less than zero, no employer's

contribution rate shall be greater than five and four-tenths (5-4/10) per cent, and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.

Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's basic contribution rate for a calendar year shall be that rate which appears on the same line as the employer's reserve ratio for the year in the basic contribution rate schedule set forth in this subsection.

BASIC CONTRIBUTION RATE SCHEDULE

<u>Reserve Ratio</u>	<u>Contribution Rate</u>
<u>.1500 and over</u>	<u>.2 per cent</u>
<u>.1400 to .1499</u>	<u>.4 per cent</u>
<u>.1300 to .1399</u>	<u>.6 per cent</u>
<u>.1200 to .1299</u>	<u>.8 per cent</u>
<u>.1100 to .1199</u>	<u>1.0 per cent</u>
<u>.1000 to .1099</u>	<u>1.2 per cent</u>
<u>.0900 to .0999</u>	<u>1.4 per cent</u>
<u>.0800 to .0899</u>	<u>1.6 per cent</u>
<u>.0700 to .0799</u>	<u>1.8 per cent</u>
<u>.0600 to .0699</u>	<u>2.2 per cent</u>
<u>.0500 to .0599</u>	<u>2.6 per cent</u>
<u>.0300 to .0499</u>	<u>3.0 per cent</u>
<u>.0000 to .0299</u>	<u>3.6 per cent</u>
<u>-.0000 to -.0499</u>	<u>4.2 per cent</u>
<u>-.0500 to -.0999</u>	<u>4.8 per cent</u>
<u>-.1000 and less</u>	<u>5.4 per cent"</u>

SECTION 2. Section 383-66, Hawaii Revised Statutes, is amended to read:

"§383-66 Contribution rates, how determined. The department of labor and industrial relations shall for the nine-month period April 1, 1941 to December 31, 1941 and for each calendar year thereafter, except as otherwise provided in this part, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer for any calendar year through 1984 shall be three per cent. For the calendar year 1985 and thereafter the standard rate of contributions

payable by each employer shall be five and four-tenths (5-4/10) per cent.

- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter[,] shall be other than the maximum rate unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if his account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year. For the calendar year 1985 and for each calendar year thereafter, the contribution rate for a new or newly covered employer shall be the sum of the employer's basic contribution rate of three and six-tenths (3-6/10) per cent and the fund solvency contribution rate determined for such year pursuant to section 383-68(c)(2), until the employer's account has been chargeable with benefits throughout the twelve consecutive calendar month period ending on December 31 of the preceding calendar year; except that no employer's contribution rate shall be greater than five and four-tenths (5-4/10) per cent and no employer with a negative reserve ratio shall have a contribution rate less than such employer's basic contribution rate.
- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976 shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration whether or not withdrawn from the trust fund shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph.

No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional credit now provided for in section 3302(b).

- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by registered mail addressed to his last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by such employer for the period for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section 383-1(8) prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to his prior experience record with respect to his separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if

they have the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to the [maximum] rate prescribed for new or newly covered employers under section 383-66(2) until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which he is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided[,] that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe [regulations] rules for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and [shall], in accordance with such [regulations] rules and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, shall maintain such joint account as if it constituted a single employer's account. The [regulations] rules shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately

following the effective date of the amendment providing for such change unless otherwise provided by the amendment.

- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter."

SECTION 3. Section 383-65, Hawaii Revised Statutes, is amended to read:

"§383-65 Charges and noncharges for benefits. (a) Except as otherwise provided in this section, benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963 shall be charged to employers' accounts in the calendar year in which the benefits are paid.

(b) Benefits paid to an individual, who, during his base period, earned wages for part-time employment with an employer, shall not be charged to the account of the employer if he continues to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

(c) Benefits paid to an individual for the period he is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 shall not be charged to any of his base period employers.

(d) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.

[(e) Benefits paid to an individual under the provisions of the extended benefits program, sections 383-168 to 383-174, of this chapter, shall not be charged to the account of any of his base period employers on a contributory plan except that one-half of the amount of such benefits which are based on services performed for a governmental employer on a contributory plan and which are paid for weeks of unemployment beginning after December 31, 1978 shall be charged to the account of such employer. Provisions of section 383-62(b) and 383-62(d)(A) will apply in the reimbursement of benefits which are paid to an individual who, during his base period, was employed by a

governmental employer making payments in lieu of contributions or a nonprofit organization electing payment in lieu of contributions.

(f) (e) Benefits paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining his employment and wages earned in two or more states shall not be charged to the reserve account of any base period employer on a contributory plan within this State.

[(g)] (f) Any benefit overpaid to a claimant as a result of ineligibility or disqualification under sections 383-29 and 383-30 shall not be charged to the reserve account of a base period employer on a contributory plan unless such overpayment resulted from the employer's failure to furnish information as required by this chapter or the rules [and regulations] of the department.

[(h)] (g) Benefits paid to an individual with respect to wages paid for previously uncovered services as defined in section 383-22(b) or for services for which an exclusion was granted pursuant to section 383-78 shall not be charged to the account of any of such individual's base period employers, but only to the extent that the fund is reimbursed for such benefits by the federal government pursuant to section 121 of Public Law 94-566."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 230

H.B. NO. 1794-84

A Bill for an Act Relating to Fees for Support Enforcement Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§346- Legal services regarding paternity and child support. In accordance with state child support enforcement services, the department of social services and housing may make legal services available to establish paternity and to establish and enforce child support obligations. The services shall be available to persons not receiving aid to families with dependent children, upon application by the persons. The department may adopt rules to require payment of fees for the services; provided that the department shall not require payment of fees for the services from persons not receiving aid to families with dependent children but whose income and resources would make them eligible for financial assistance."

SECTION 2. Section 584-9, Hawaii Revised Statutes, is amended to read:

“§584-9 Parties; guardian ad litem for minor presumed or alleged father; county attorney or corporation counsel to represent [mother;] custodial parent or agency¹; notice to parents. (a) The child may be made a party to the action and may be represented by his general guardian or a guardian ad litem appointed by the court. The child’s mother or father shall not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under section 584-4, and each man alleged to be the natural father, shall be made parties, or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard.

(b) If it appears to the satisfaction of the court that a man alleged or presumed to be the father is a minor, the court shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of the minor and may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor cannot be found, the notice may be served in such manner as the court may direct pursuant to sections 634-21 to 634-24. The court may align the parties.

(c) The county attorney or corporation counsel shall represent the child’s [mother or her] custodial parent, or the custodial parent’s personal representative or parent if the [mother] custodial parent has died[.], or any agency authorized to seek the determination and establishment of paternity or maternity under chapter 346, if an application for services is made. Fees may be charged of the applicant as provided for by the provisions of chapter 346.”

SECTION 3. Section 576-25, Hawaii Revised Statutes, is amended to read:

“§576-25 Officials to represent plaintiff. Where in any case initiated in a court of this State the plaintiff is unable to hire private counsel, the county attorney or corporation counsel upon request of the department of social services and housing shall represent the plaintiff[.]; except that fees may be charged as provided for by the provisions of chapter 346; the county attorney or corporation counsel of each county shall represent the plaintiff in any case in which the State is the responding state, provided[,], that in the latter case the plaintiff may employ private counsel and in such event the county attorney or corporation counsel shall not be obligated to act save as requested by the court.”

SECTION 4. Section 580-15, Hawaii Revised Statutes, is amended to read:

“§580-15 County attorneys to represent court. The county attorneys of Maui and Kauai and the corporation counsels of the city and county of Honolulu and the county of Hawaii, within their respective counties, shall when and to the extent authorized by their respective county governing bodies and upon request of the family court represent the court in any contempt proceeding for the enforcement of any order or decree for support of a spouse or child support or both[.], except that fees may be charged as provided for by the provisions of chapter 346.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 6. This Act shall take take effect upon its approval.

(Approved May 31, 1984.)

Notes

1. Underscoring missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 231

H.B. NO. 1946-84

A Bill for an Act Making an Appropriation for Personal Care Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1984-1985, for personal care services.

SECTION 2. Of the sum appropriated, \$475,000 shall be expended by the department of social services and housing to serve persons eligible for medical assistance, and \$25,000 shall be expended by the executive office on aging to serve persons not eligible for medical assistance.

SECTION 3. This Act shall take effect on July 1, 1984.

(Approved May 31, 1984.)

ACT 232

H.B. NO. 2016-84

A Bill for an Act Relating to the Patients' Compensation fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-693, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All rates shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience within and outside this State, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State; including, without limitation of the foregoing, that in the case of workers’ compensation insurance, due consideration shall be given to investment income earned or realized by insurers, including investment income earned from unearned premium and loss reserve funds.
- (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (3) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
- (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (5) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such risks, or except where [a]:
 - (A) A common stock ownership in and management control of such risks are held by the same person, corporation, or firm[, or except where permitted];
 - (B) Permitted or authorized by filings in existence as of January 1, 1957 under sections 431-691 to 431-707, as such filings may be amended from time to time[, or except where otherwise];
 - (C) Health care providers, as defined in section 671-1 who could have joined the patients’ compensation fund as it existed in

chapter 671, part III, prior to the effective date of this Act, join together in one or more groups of related or unrelated health care providers; or

(D) Otherwise expressly provided by law.”

SECTION 2. Section 435C-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The plan shall, pursuant to the provisions of this chapter and the plan of operation with respect to medical malpractice insurance, have the power on behalf of its members:

- (1) To issue, or to cause to be issued policies of insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation but not to exceed \$100,000 for each claimant under one policy in any one year[, with any amount due on a judgment, arbitration award, or settlement in excess of \$100,000 to be paid from the patients’ compensation fund created by section 671-31];
- (2) To appoint service companies to underwrite such insurance and to adjust and pay losses with respect thereto;
- (3) To assume reinsurance from its members; and
- (4) To cede reinsurance.”

SECTION 3. Section 431-457, Hawaii Revised Statutes, is repealed.

SECTION 4. Part III, chapter 671, Hawaii Revised Statutes, is repealed.

SECTION 5. This Act does not affect rights and duties that matured, liabilities that were incurred, and proceedings that were begun, before its effective date. The director of commerce and consumer affairs shall continue to administer the patients’ compensation fund until the moneys in the fund are exhausted and to make payments for claims following a judgment, award, or settlement against a health care provider who was a participant in the fund at the time the medical tort or alleged medical tort occurred in the same manner as provided for in part III of chapter 671, Hawaii Revised Statutes, before its repeal.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 233

H.B. NO. 2078-84

A Bill for an Act Relating to the Commission on Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-19, Hawaii Revised Statutes, is amended to read as follows:

“§26-19 Department of transportation. The department of transportation shall be headed by a single executive to be known as the director of transportation.

The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, and arrange for contracts with private organizations to manage and operate [any such] these programs. Ridesharing programs include informal arrangements in which three or more persons ride together in a motor vehicle for four or more days a week to or from work or school.

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. The commission on transportation shall consist of [one member from each county having a population under 200,000, one member from each district of each county having a population of 200,000 or more, and

three members at large. The term "district" refers to the districts set forth under section 4-1.] not more than eleven members, with the number of members from each county insofar as practicable being approximately proportional to the population of the respective counties to the population of the State; provided that each of the four counties shall be represented by at least one member."

SECTION 2. Current members of the commission on transportation shall serve out their appointed terms unless they resign or are otherwise unable to serve.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

ACT 234

H.B. NO. 2196-84

A Bill for an Act Relating to Financial Institutions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 401-14, Hawaii Revised Statutes, is amended to read as follows:

"§401-14 [Bank examiner not to divulge information. Neither the bank examiner, nor his deputies, nor any other person appointed by the bank examiner as provided by law, shall divulge any information acquired by them in the discharge of their official duties, except insofar as the same may be rendered necessary by law, or may be requisite to the execution of the powers vested in and duties required of the bank examiner, or under order of any court, or in any suit or action commenced under any law regulating banks, trust companies, building and loan associations, fiduciary companies, industrial loan and investment companies, or commenced under chapter 409, or in any suit, action, or proceedings in which the director of commerce and consumer affairs¹ or the bank examiner or the deputy bank examiner is a party, or in any criminal action or proceedings; provided, that the bank examiner may furnish reports of condition of banks, trust companies, building and loan associations, industrial loan and investment companies, or licensees under chapter 409 to the Federal Reserve Board, the Federal Home Loan Board or the Federal Home Loan Bank or any of its agencies, or to any other federal agency or to the several states or any officer or agency or instrumentality thereof; and provided further, that the bank examiner may cause to be published in the English language in a paper of general circulation in the State a combined statement of the statements of

conditions of banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409 in such form as he may see fit, using information derived from reports made to him by the respective banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409.]

Confidentiality of information. (a) Except as otherwise provided in this section or as may be specifically authorized under any law regulating the institutions described in this chapter, neither the bank examiner, nor any deputy, nor any other person appointed by the bank examiner as provided by law, shall divulge any of the following information nor will it be made available to any person, if that information is:

- (1) Exempt from disclosure by any federal or state statute;
- (2) Contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of, the bank examiner, relating to the affairs of any bank, trust company, building and loan association, fiduciary company, industrial loan and investment company, or licensee under chapter 409, or affiliate thereof;
- (3) Privileged or related to the business, personal, or financial affairs of any person and is furnished in confidence;
- (4) Contained in investigatory files compiled for law enforcement purposes, including but not limited to, information relating to matters involving:
 - (A) The issuance of an order under section 401-5;
 - (B) The issuance of an order of suspension, revocation, or removal; and
 - (C) The granting or revocation of any approval, permission, or authority;
- (5) Related solely to the internal personnel rules or other internal practices of the bank examiner;
- (6) Contained in personnel, medical, and similar files (including financial files), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or
- (7) Contained in inter-agency and intra-agency memoranda or letters that would not be routinely available by law to a private party in litigation with the bank examiner, including but not limited to memoranda, reports, and other documents prepared by the staff of the bank examiner.

(b) The bank examiner shall furnish a copy of each report of the regular examination of a bank, trust company, building and loan association, industrial loan and investment company, or licensee under chapter 409 to the financial institution examined.

(c) Reports of examination and other information relating to financial institutions may be made available, upon requests, by the bank examiner to:

- (1) Federal governmental agencies having supervision of state-chartered financial institutions;
- (2) State governmental agencies having supervisory authority similar to the bank examiner; and
- (3) Other agencies of the United States or a state for use where necessary to investigate criminal charges in connection with the affairs of any financial institution under the supervision of the bank examiner. All reports or other information made available pursuant to this subsection shall remain the property of the bank examiner, and no person, institution, agency or authority to whom the information is made available, or any officer, director, or employee thereof, shall disclose any of that information, except published statistical material that would not disclose the identity of any individual or corporation.

(d) The bank examiner may cause to be published in the English language in a newspaper of general circulation in the State a combined statement of the statements of conditions of banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409 in such form as the bank examiner may see fit, using information derived from reports made to the bank examiner by the respective banks, trust companies, building and loan associations, industrial loan and investment companies, and licensees under chapter 409.

(e) Any bank examiner, deputy bank examiner, or any other person appointed by the bank examiner as provided by law who violates this section shall be immediately discharged.”

SECTION 2. Chapter 402, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§402- Circulating untrue statements; criminal liability. (a) Any person who intentionally or knowingly makes, circulates, or transmits to another or others any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any fiduciary company doing business in this State, or who knowingly counsels, aids, procures, or induces another to start, transmit or circulate any such statement or rumor, shall be guilty of a misdemeanor.

(b) Any person who maliciously or for personal financial gain makes, circulates, or transmits to another or others any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or

financial standing of any fiduciary company doing business in this State, or who maliciously or for personal financial gain counsels, aids, procures, or induces another to start, transmit or circulate any such statement or rumor, shall be guilty of a class C felony."

SECTION 3. Section 408-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§408-2.1 Exclusiveness of name. (a) No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless lawfully licensed and authorized to do business in this State under this chapter and actually engaged in carrying on an industrial loan business shall transact any business under any name or title which contains the words ["finance", "financial",] "industrial loan"[,] or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan company under this chapter. The bank examiner may examine the accounts, books, and records of any person, company, association, fiduciary, partnership, or corporation to ascertain whether this section has been or is being violated.

(b) Any person violating this section shall forfeit to the State \$100 a day for every day or part thereof during which the violation continues. Upon action brought by the bank examiner or any industrial loan company, the court may issue an injunction restraining any person, firm, company, association, fiduciary, partnership, or corporation or agent from further violating this section or from further acting in any way or manner as to imply or lead the public to believe that its business is of an industrial loan character.

(c) This section shall not apply to any person, firm, company, association, fiduciary, partnership, or corporation registered to do business in the State under the name, or title, or descriptive term which contains the words ["finance", "financial", or] "industrial loan"[,] on or before June 12, 1982. Any form or type of advertisement used by such person, firm, company, association, fiduciary, partnership, or corporation shall contain a statement in the same size print as its name, or title, or descriptive term that the company is not an industrial loan company under this chapter.

(d) This section shall not apply to the use of an academic degree or a professional designation given by an accredited institution of higher education to an individual upon completion of the requirements for such degree or designation."

SECTION 4. Section 408-8, Hawaii Revised Statutes, is amended to read as follows:

“§408-8 Application for license; investigation fee. (a) Any company required or desiring to obtain a license to operate under this chapter shall file an application, in writing, under oath, with the bank examiner, in the form prescribed by the bank examiner, which shall contain:

- (1) The full name and address of the applicant, and, if the applicant is a firm, of every member thereof, or, if the applicant is a corporation, of every officer thereof;
- (2) The county and town with street and number where the business is to be conducted; and
- (3) Such other information as the bank examiner may require.

(b) The applicant shall pay to the [director of regulatory agencies] bank examiner at the time of filing of an application for license an investigation fee of \$1,000, which shall not be refundable. Licensees who apply for the relocation of their present offices shall pay to the [director] bank examiner an investigation fee of \$50, which shall not be refundable.

(c) Upon the filing of the application, if the bank examiner upon investigation finds:

- (1) That the financial responsibility, experience, character, and general fitness of the applicant and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter;
- (2) That allowing the applicant to engage in this business will promote the convenience and advantage of the locality or community in which the business of the applicant is to be conducted;
- (3) That the applicant has available for the operation of this business at the specified location capital of at least \$100,000; and
- (4) That allowing the applicant to engage in this business will not substantially lessen competition or tend to create a monopoly or in any other manner be in restraint of trade[.];

then the bank examiner shall [write upon the face of the application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicant who, upon receipt of an approved application, shall transmit it within thirty days to the director who shall file and preserve the application.] approve the application and notify the applicant in writing. The applicant shall commence its industrial loan business within sixty days after receiving the notice of approval; provided, that the bank examiner may, for good cause shown, grant a reasonable extension for commencing business.

(d) [No application shall be disapproved except after the applicant has had a notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the bank examiner, within twenty days

thereafter, shall prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicant a copy of the order of denial.] If the bank examiner is not satisfied that the applicant meets all the criteria set forth in subsection (c), the bank examiner shall hold a hearing on the application, at which time the applicant shall be given an opportunity to be heard. If the application is denied, the bank examiner shall serve upon the applicant a copy of the order of denial, as well as the findings and reasons in support of the denial. Within ten days after the receipt of the [copy] order, the applicant may appeal from the order of denial to a board consisting of the director of commerce and consumer affairs, comptroller, and attorney general by filing with the comptroller a notice of appeal. After notice by mail to the applicant and after a hearing at which the applicant shall be entitled to be present and to be heard, the board shall file with the comptroller its decision in writing either ordering the bank examiner to approve the application or affirming [his action in disapproving the same.] the denial. A copy of the decision or order of the board shall forthwith be served upon the applicant by the bank examiner. The applicant may appeal from an adverse decision of the board to the circuit court of the circuit in which the applicant proposes to establish an office, as provided in chapter 91."

SECTION 5. Section 408-11.1, Hawaii Revised Statutes, is amended to read as follows:

"§408-11.1 Transfer of licenses[.], voting control. (a) No license issued under this chapter shall be transferred or assigned [without] unless incidental to a bona fide sale of all or substantially all of the ongoing business operations of a licensee, and unless the sale has the prior written approval of the bank examiner.

(b) If the licensee is a corporation, any intended transfer of its voting stock shall be reported in writing to, and shall be subject to the approval of, the bank examiner [within fifteen days after the date of such transfer. Failure or refusal to notify the bank examiner of such transfer shall be cause for the suspension or revocation of the license].

[The bank examiner may, upon determination that the transferee or any other person has gained direct or indirect control of the corporate licensee by such transfer and upon determination that such transferee or other person is unfit or an improper person to hold a license pursuant to section 408-8, limit, modify, suspend or revoke the corporate license.]

(c) The bank examiner:

- (1) Upon determination that any intended transferee fails to meet the criteria required for the approval of a license pursuant to section 408-8; and
- (2) After notice and a hearing as provided in section 408-8(d);

may disapprove such transfer, or limit or modify the license.

(d) Any violation of this section shall be cause to suspend or revoke a license issued under this chapter."

SECTION 6. Section 408-14, Hawaii Revised Statutes, is amended to read as follows:

"§408-14 Specific powers. (a) Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action[, notwithstanding section 416-31 to the contrary];
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for the purchases;
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of thrift accounts as defined in and subject to chapter 408A, and to receive amounts invested therein in installments or otherwise, with or without allowance of interest on [such] the investments[.]; provided no company may issue the certificates or receive those amounts unless the company is a corporation organized and operating in good standing under the laws of this State. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or rules. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand; and
- (7) To become the legal or beneficial owner of tangible personal property and other tangible property for the purpose of leasing such

property, to obtain an assignment of a lessor's interest in a lease of such property, and to incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(b) The certificates in subsection (a), including the evidence of the thrift accounts, shall not be issued by any industrial loan company without receiving the prior written approval of the bank examiner, and shall bear upon the face of the instrument the words, "THIS IS NOT A CERTIFICATE OF DEPOSIT."

(c) No industrial loan company shall have outstanding at any time its certificates, debentures, or both registered under chapter 485 in an aggregate sum in excess of ten times the aggregate amount of its paid-up capital and surplus; provided [that] the bank examiner [shall have the authority to] may limit the ratio of certificates, debentures, or both to capital and surplus which may be issued by any industrial loan company if [he] the bank examiner determines that the lower ratio is necessary in the public interest. In determining the ratio to be permitted, the bank examiner shall consider all relevant circumstances, including, without limitation, the following factors:

- (1) The length of time the company has been in operation;
- (2) Ratio of losses to volume of loans made and contracts purchased;
- (3) The creation and maintenance of adequate reserve for losses;
- (4) Charge-off of uncollectible accounts;
- (5) The amount or growth of undivided profits, earned surplus, or both;
- (6) Diversification of character and source of loans made and contracts purchased;
- (7) Creation and maintenance of adequate internal controls; and
- (8) Sound and efficient management.

(d) Every industrial loan company[, as of January 1, 1977,] shall maintain and have on hand at all times a reserve composed of cash and other securities in an amount equal to the sum of [five per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more, and after January 1, 1978, maintain and have on hand at all times the above-mentioned reserve in an amount equal to the sum of] seven per cent of its liabilities on outstanding certificates and debentures with an original term not exceeding one year and five per cent of its liabilities on outstanding certificates and debentures with an original term of one year or more. The reserve shall not be pledged.

This reserve shall be determined as of a particular date and shall be based upon the daily average of all outstanding certificates and debentures of the immediate preceding seven calendar days. During a succeeding seven calendar day period, the average daily balance of the reserve shall equal or exceed the reserve amount. At the end of the seven calendar day period, a new reserve amount shall be determined based upon the daily average of the immediate

preceding seven calendar days and for the next succeeding seven calendar day period, the average daily balance of the reserve shall equal or exceed such new amount. Determination of reserve requirements shall be made on forms approved by the bank examiner and shall be computed within two working days after the date of determination.

(e) Upon any failure to maintain the ratio required in subsection (c) or the reserve [requirement for the required seven calendar day period] required in subsection (d), the industrial loan company shall:

- (1) Promptly take action to correct the [reserve] deficiencies;
- (2) Cease making any loans or other advances or extensions of credit until the [reserve deficiency is] deficiencies are corrected; and
- (3) Notify the bank examiner immediately, in case of any deficiency in the ratio requirement, and within two working days [after the close of the period.] in case of any deficiency in the reserve requirement.

The bank examiner [may], in writing, may direct specific directors and officers of any industrial loan company in violation of this section to take actions reasonably necessary [to increase its reserve so as] to comply with this section.

[(e)] (f) Cash reserves shall be limited to cash in banks and on hand, bank or savings and loan certificates of deposit, direct United States, [state,] State, or county government securities, and passbook deposits in banks or savings and loans. The cash reserve shall at all times equal [no] not less than fifty per cent of the reserve that is required by this section.

[(f)] (g) Other securities shall be limited to direct obligations of the United States government, [state,] State, or county, bankers acceptances approved by the bank examiner, irrevocable lines of credit in a form acceptable to the bank examiner, and securities listed on the New York stock exchange or the American stock exchange. Not more than twenty-five per cent of the total reserve of cash and other security shall be held in securities listed on the New York stock exchange or the American stock exchange."

SECTION 7. Section 408-14.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§408-14.5]] Transactions involving affiliates, officers, directors and certain shareholders; limitations. (a) No industrial loan company that issues certificates as provided for in section 408-14, or has outstanding any debentures registered under chapter 485 shall:

- (1) Invest any of its funds in the capital stock, bonds, debentures, or obligations, other than for secured loans as provided [for] in paragraphs (3) and (4) [of this section], in any of its affiliates if thereby the aggregate amount of all such investments in all affiliates will exceed [the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five

per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.] fifty per cent of its paid-up capital and surplus.

- (2) [After May 13, 1976, invest] Invest any of its funds in any affiliate unless it shall have obtained the prior written approval of the bank examiner. The bank examiner may withhold or refuse any [such] approval if [he] the bank examiner finds that the activity engaged in by the affiliate company is substantially unrelated to those activities authorized by section 408-14.
- (3) Make any unsecured or partially secured loan, advance, or extension of credit to any of its affiliates if thereby the aggregate amount of all unsecured or partially secured loans, advances, or extensions to all of its affiliates will exceed five per cent of the paid-up capital and surplus of the industrial loan company.
- (4) Make any secured loan, advance, or extension of credit, as described in section 408-14.7, to any of its affiliates if thereby the aggregate amount of all [such] those secured loans, advances, or extensions of credit to all affiliates will exceed [the following percentages of its paid-up capital and surplus during the calendar years hereafter indicated: ninety-five per cent from July 1, 1977 through December 31, 1977; ninety per cent from January 1, 1978 through December 31, 1978; eighty per cent from January 1, 1979 through December 31, 1979; seventy per cent from January 1, 1980 through December 31, 1980; sixty per cent from January 1, 1981 through December 31, 1981; and fifty per cent from January 1, 1982 through December 31, 1982 and thereafter.] fifty per cent of its paid-up capital and surplus.
- (5) Accept as collateral the capital stock of itself or of any of its affiliates.
- (6) Without the prior written approval of its board of directors, directly or indirectly, make any loan, advance or extension of credit to, or purchase a contract or chose in action from:
 - (A) A person who is an officer, director, or beneficial owner of ten per cent or more of the shares of the industrial loan company or of any of its affiliates.
 - (B) A person who directly or indirectly acquires such contract through intervening assignments from a person described in subparagraph (A) [hereof]; provided[, however, that] no

[such] prior approval shall be required on any loan made to [such] persons in subparagraph (A) and [(B) herein] this subparagraph which is secured by investment certificates or debentures issued to [such] those persons by the industrial loan company.

(b) All industrial loan companies that issue certificates as provided for in section 408-14, or have outstanding any debenture registered under chapter 485, shall submit to the bank examiner, at [his] the bank examiner's request, an annual financial report, prepared by an independent certified public accountant, for any affiliate to which they have loaned or invested their funds."

SECTION 8. Section 408-21, Hawaii Revised Statutes, is amended to read as follows:

"§408-21 Books of account; reports to bank examiner, forms and statements; penalty. (a) Each company shall keep and use in its business [such], and shall maintain at its principal office in this State, all books, accounts, and records [as will enable] relevant to the transaction of its business in this State, so that the bank examiner [to] may determine whether the company is complying with this chapter and with the rules [and regulations] lawfully [made] adopted by the bank examiner [hereunder]. The bank examiner may adopt rules that provide for alternate locations at which such books, accounts, and records may be kept and maintained, or that provide for alternate methods and procedures for the retention and maintenance of such books, accounts, and records.

(b) On or before January 31 and July 31 of each year, each company shall file with the bank examiner a report, upon a form to be prescribed and furnished by the bank examiner, of its condition, affairs, and operation for the six months ending December 31 and June 30, respectively, last preceding. The report shall be verified under oath, and contain such information as the bank examiner [shall request] requests in the forms [so] furnished. [The foregoing provisions of this paragraph shall not be applicable to foreign corporations, but the foreign corporations shall file semiannual reports with the bank examiner upon such forms, and within such time as he shall prescribe.]

(c) Every company shall furnish to the bank examiner any special or supplementary reports, covering all or any items or matters or classes thereof which are or might be required to be covered by a semiannual report, in such form, at such time or times, and within such reasonable period or periods after request therefor, as the bank examiner shall deem necessary or expedient in the interest of the public. The report or reports shall be in writing under oath.

[Penalty.] (d) If any officer or any person in charge of any company [wilfully and] knowingly fails to file the report or if any report is [wilfully and] knowingly delayed or withheld beyond the day when it should be so filed the officer or the person shall be liable to forfeiture of the sum of [\$10] \$100 for

every day the report is so withheld or delayed or not completed, and any shareholder of any incorporated industrial loan company or any party in interest may maintain an action in [his] the shareholder's own name to enforce the penalty and the same shall be paid to the [director of regulatory agencies] bank examiner."

SECTION 9. Section 408-21.5, Hawaii Revised Statutes, is amended to read as follows:

"[]§408-21.5[] **Audited statements.** (a) Each industrial loan company issuing investment certificates under this chapter or debentures registered under chapter 485, shall at its own expense submit to the bank examiner within ninety days after the close of its books on a fiscal or calendar year, [a certified audit of its books and records made by an independent certified public accountant; provided, that the] its financial statements prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant. The bank examiner [may], for good cause shown, may grant a reasonable extension of not more than forty-five days for submitting [such report.] the financial statements and report or opinion.

(b) The examination of the financial statements by the certified public accountant shall be performed in accordance with generally accepted auditing standards. The audit shall include, among other things, a direct verification of the installment investment certificate accounts, investment certificate accounts and debenture accounts [by the independent certified public accountant in accordance with generally accepted accounting principles and practices]. The [certification made] report or opinion rendered by the independent certified public accountant shall include a statement as to the extent of the verification of the accounts.

If consolidated financial statements are used, there shall also be within the audit separate financial statements for the industrial loan company and for each of its wholly owned subsidiaries.

Failure to comply with this section shall be grounds for the suspension or revocation of the industrial loan license."

SECTION 10. Section 408-22, Hawaii Revised Statutes, is amended to read as follows:

"§408-22 **Examination by bank examiner; perjury; penalty for refusal to give information, etc.** (a) The bank examiner [shall, at least once in each year,] not less than once every eighteen months, without previous notice, in person or by [any person by him appointed,] an appointee, shall examine into the business and affairs of every industrial loan company for the purpose of ascertaining whether or not all matters of law pertaining to industrial loan companies and particularly as to interest and other charges are being complied with.

For the purpose of the examination, the bank examiner, [and his assistant] or any other person authorized by [him] the bank examiner to make the examination shall have free access to all books and papers of the industrial loan company, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, officers, agents, or employees of the company or any other person in relation to its affairs, transactions, and conditions. [He] The bank examiner may require and compel the production of records, books, papers, contracts, or other documents by court action, if necessary.

[Penalties.] (b) Any person knowingly [or wilfully] testifying falsely in reference to any matter material to the examination shall be deemed guilty of perjury and punished as provided in section [756-5 provided,] 710-1060, and any person who wilfully refuses or fails to attend, answer, or produce books or papers, or who refuses to give the bank examiner or [his assistant or] the person authorized by [him] the bank examiner, full and truthful information and answer in writing to any inquiry or question made in writing [by the bank examiner or assistant or the person authorized by him,] in regard to the business carried on by the company, or other matters under investigation, or who refuses or [wilfully] fails to appear and testify under oath before the bank examiner[, his assistant,] or the person authorized by [him,] the bank examiner, shall be fined not more than \$500, or imprisoned not more than three months, or both."

SECTION 11. Section 408-23, Hawaii Revised Statutes, is amended to read as follows:

"§408-23 Report of examination. As soon as possible after the completion of an examination the bank examiner shall report in writing [his] all findings to the director of commerce and consumer affairs¹. A copy of the report may be provided to the licensee examined, but the report or other information made available to the licensee shall remain the property of the bank examiner. The licensee, or any officer, director, or employee thereof, shall not disclose any of the information. If the report or other information provided by the bank examiner is subpoenaed, the licensee shall immediately advise the bank examiner of the service and of all relevant facts, including the documents and information requested."

SECTION 12. Section 408-25, Hawaii Revised Statutes, is amended to read as follows:

"§408-25 Suspension, revocation or surrender of license. (a) The bank examiner [may], upon at least twenty days written notice to the licensee stating the contemplated action and grounds, and upon reasonable opportunity to be heard, may revoke any license issued hereunder if [he] the bank examiner finds that [any]:

- (1) Any fact or condition exists which would clearly have warranted the bank examiner in refusing originally to issue the license[.]; or
- (2) The company has ceased to engage actively in the industrial loan business for a period of six months or more.

(b) If the bank examiner finds that cause for revocation of any license exists and that the enforcement of the chapter requires immediate suspension of the license pending investigation, [he may,] the bank examiner, upon five days written notice and a hearing, may suspend the license for a period not exceeding thirty days.

The bank examiner may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist, or, if [he] the bank examiner finds that the grounds for revocation or suspension are of general application to all licensed places of business, or to more than one licensed place of business, operated by the licensee, [he] the bank examiner shall revoke or suspend all of the licenses issued to the licensee or such licenses as such grounds apply to, as the case may be.

(c) Any licensee may surrender any license by delivering to the bank examiner written notice that [he] the licensee thereby surrenders [his] the license, but the surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender.

No revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

(d) Every license issued under this chapter shall remain in force and effect until it is surrendered, revoked, or suspended in accordance with this chapter. The bank examiner, [may] on [his] the bank examiner's own initiative, may reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if no fact or condition then exists which would have warranted the bank examiner in refusing originally to issue the license under this chapter.

(e) The party affected by an order revoking or suspending a license may appeal to the circuit court of the circuit in which the applicant maintains [his or] its principal place of business, as provided in chapter 91. After hearing, the court may order the bank examiner to reverse [his] the decision as to revocation or suspension, or may affirm the action of the bank examiner."

SECTION 13. Section 408-27, Hawaii Revised Statutes, is amended to read as follows:

"§408-27 Not to divulge information. The bank examiner, assistant bank examiners, and any other person appointed by the bank examiner as provided by this chapter, shall not divulge any information acquired by them in the discharge of their duties, except to the extent permitted by section 401-14

[insofar as the same may be rendered necessary by this chapter or any other law or under order of court in the action involving the bank examiner or in any criminal actions or proceedings]; provided [that] any [such] information may be furnished to the board of directors of the Thrift Guaranty Corporation of Hawaii in response to a written request by the board."

SECTION 14. Section 407-111, Hawaii Revised Statutes, is repealed.

SECTION 15. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 16. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 17. This Act shall take effect upon its approval.

(Approved May 31, 1984.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 235

S.B. NO. 20

A Bill for an Act Relating to Payment for Goods and Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-10, Hawaii Revised Statutes, is amended to read as follows:

"§103-10 Payment for goods and services. Any person who renders a proper statement for goods delivered or services performed, pursuant to contract, to any agency of the State or any county, shall be paid no earlier than thirty days, except with the approval of the comptroller, and no later than [sixty] forty-five calendar days following receipt of the statement[.] or satisfactory delivery of the goods or performance of the services, whichever is later. In the event circumstances prevent the paying agency from complying with this section, the person shall be entitled to interest from the paying agency on the principal amount remaining unpaid at the [rate of one per cent per month] effective rate of twelve per cent simple interest per year commencing on the [sixtieth] forty-fifth day following receipt of the statement[.] or satisfactory delivery of the goods or performance of the services, whichever is later, and ending on the date of the warrant. This section shall not apply in those cases where delay in payment is due to: a bona fide dispute between the State or any

county and the contractor concerning the services or goods contracted for[. This section shall apply only to those cases where payment is withheld arbitrarily or erroneously.]; a labor dispute; a power or mechanical failure; fire; acts of God; or any similar circumstances beyond the control of the State or any county. Where the time of payment is contingent upon the receipt of federal funds, or federal approval, the solicitation of bids for contracts shall clearly state that payment is contingent upon such conditions. If the solicitation for bids contains the warning and a contract is awarded in response to the solicitation then interest will not begin to accrue upon any unpaid voucher until the [sixtieth] forty-fifth day following receipt by the State of the contractor's statement or the thirtieth day following receipt of the federal funds or approval, whichever occurs later[.], and will end as of the date of the warrant."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect January 1, 1985.

(Approved June 4, 1984.)

ACT 236

H.B. NO. 177

A Bill for an Act Relating to the Hawaii State Planning Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 226-1, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-1[] **Findings and purpose.** The legislature finds that there is a need to improve the planning process in this State, to increase the effectiveness of public and private actions, to improve coordination among different agencies and levels of government, to provide for wise use of Hawaii's resources and to guide the future development of the State.

The purpose of this chapter is to set forth the Hawaii state plan that shall serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State of Hawaii; provide a basis for determining priorities and allocating limited resources, such as public funds, services, manpower, land, energy, water, and other resources; [and assure] improve coordination of state and county plans, policies, programs, projects, and regulatory activities[.]; and to establish a system for plan formulation and program coordination to provide for an integration of all major state and county activities.

[The purpose of this chapter is also to establish a system for plan formulation and program coordination to provide for an integration of all major

state and county activities. Implementation provisions contained herein are designed to carry out statewide guidelines presented in the form of the overall theme, goals, objectives, policies, and priority directions by:

- (1) Fostering policy integration and coordination of state and county plans, programs, projects, and regulatory activities;
- (2) Defining a statewide planning system and processes; and
- (3) Providing a basis for determining priorities and allocating limited resources.]”

SECTION 2. Section 226-2, Hawaii Revised Statutes, is amended to read as follows:

“[[§226-2[]] **Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) “Department” means the department of planning and economic development.
- (2) “Policy council” means the council established in section 226-53.
- (3) “Advisory committee” means the committee established in section 226-57 to advise and assist in the formulation of the state functional plans.
- (4) “State agency” means any department, office, board, or commission of the State, or the University of Hawaii.
- (5) “County agency” means any department, office, board, or commission of the county.
- (6) “Hawaii state plan” means a long-range comprehensive plan, including the overall theme, goals, objectives, policies, priority guidelines [directions] and implementation mechanisms established in this chapter.
- (7) “Priority [directions] guidelines” means [the overall direction and implementing actions established in this chapter.] those guidelines which shall take precedence when addressing areas of statewide concern.
- (8) “County general plan” means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.
- (9) “County development plan” means a relatively detailed plan for an area or region within a county to implement the objectives and policies of the county general plan.
- (10) “Functional plan” means a plan setting forth the policies, [programs, and projects designed to implement the objectives of] statewide guidelines, and priorities within a specific field of activity, when such activity or program is proposed, administered, or funded by any agency of the State.

- (11) "State programs" means a combination of actions and activities undertaken by any state agency that are designed, coordinated, and executed to achieve an objective or set of objectives and policies within defined areas of concern.
- (12) "A-95 Clearinghouse" means the agency or agencies designated to carry out the procedures established pursuant to federal directive A-95 whereby certain applications for federal funds are reviewed and affected agencies are notified of the proposed applications.
- (13) "Regional carrying capacity" means the maximum population in a given area that can be adequately supported in an economically and environmentally sound manner.
- (14) For the purposes of sections 226-52, 226-57, and 226-62, "conform", "in conformance with this chapter" or "be in conformance with the overall theme, goals, objectives and policies" means the weighing of the overall theme, goals, objectives and policies of this chapter and a determination that an action, decision, rule or state program is consistent with the overall theme, and fulfills one or more of the goals, objectives or policies of this chapter.
- (15) For the purposes of this chapter, "guidelines" means a stated course of action which is desirable and should be followed unless a determination is made that it is not the most desirable in a particular case; thus, a guideline may be deviated from without penalty or sanction."

SECTION 3. Section 226-51, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-51[]] Purpose. The purpose of this part is to establish a statewide planning system to coordinate and guide all major state and county activities and to implement the overall theme, goals, objectives, policies, and priority [directions] guidelines."

SECTION 4. Section 226-52, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-52[]] **Statewide planning system.** (a) The statewide planning system shall consist of the following policies, plans, and programs:

- (1) The overall theme, goals, objectives, and policies established in this chapter shall provide the broad guidelines for the State.
- (2) The priority [directions] guidelines established in this chapter shall provide [direction] guidelines for decision-making by the State and the counties for the immediate future and set priorities for the allocation of resources. [Conformance with the priority directions shall be demonstrated in the formulation, amendment, and imple-

mentation of state functional plans, county general plans and development plans, and state programs.] The formulation and amendment of state functional plans shall be in conformance with the priority guidelines.

- (3) State functional plans shall be prepared for, but not limited to, the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development. State functional plans shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter. County general plans and development plans shall be [used as a basis] taken into consideration in the formulation and amendment of state functional plans.
- (4) County general plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. County general plans or development plans shall further define[, implement, and be in conformance with] the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter. State functional plans which have been adopted by concurrent resolution by the legislature shall be [utilized as guidelines] taken into consideration in amending the county general plans [to be in conformance with the overall theme, goals, objectives, policies, and priority directions].
- (5) State programs shall include, but not be limited to, those programs involving coordination and review; research and support; design, construction, and maintenance; services; and regulatory powers. State programs that exercise coordination and review functions shall include, but not be limited to, the state clearinghouse process, capital improvements program, and coastal zone management program. State programs that exercise regulatory powers in resource allocation shall include, but not be limited to, the land use and management programs administered by the land use commission and the board of land and natural resources. State programs shall further define, implement, and be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(b) The statewide planning system shall also consist of several implementation mechanisms:

- (1) The overall review, coordination, and evaluation process. The overall review, coordination, and evaluation shall be conducted by the policy council, with the assistance of the department.
- (2) The state budgetary [and], land use, and other decision-making processes. The state budgetary [and], land use, and other decision-making processes shall consist of:
 - (A) Program appropriations process. The appropriation of funds for major programs under the biennial and supplemental budgets, shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.
 - (B) Capital improvement project appropriations process. The appropriation of funds for major plans and projects under the capital improvements program shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.
 - (C) Budgetary review process of the department of budget and finance. The budgetary review and allocation process of the department of budget and finance shall be in conformance with [the provisions of this chapter] the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.
 - (D) [Decision-making process] Land use decision-making processes of [the] state [land use commission. The] agencies. Land use decisions made by [the land use commission] state agencies shall be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter. The rules [and regulations] adopted by [the land use commission] appropriate state agencies to govern land use decision-making shall be in conformance with the [provisions of this chapter.] overall theme, goals, objectives and policies contained within this chapter.

- (E) [Decision-making process of the board of land and natural resources. The decisions made by the board of land and natural resources shall be in conformance with] All other regulatory and administrative decision-making processes of state agencies shall be in conformance with the overall theme, goals, objectives, and¹ policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter. [The rules and regulations] Rules adopted by [the board of land and natural resources] state agencies to govern [land use] decision-making shall be in conformance with the [provisions of this chapter.] overall theme, goals, objectives and policies contained within this chapter.
- (3) Other coordination processes which include the use of the A-95 state clearinghouse process. The state clearinghouse shall coordinate the review of all projects requiring federal funding and shall notify the policy council of all proposed projects¹ which conflict with this chapter, or any functional plan adopted under this chapter[, or any county general plans or development plans which are in conformance with the provisions of this chapter].”

SECTION 5. Section 226-54, Hawaii Revised Statutes, is amended to read as follows:

“[]§226-54[] **Policy council; duties.** The policy council shall:

- (1) Provide a forum for the discussion of conflicts between and among this chapter, functional plans either adopted by the legislature or to be submitted to the legislature for adoption, county general plans and development plans, and state programs;
- (2) Transmit to the governor, legislature, and the mayors and legislative bodies of the respective counties its findings and recommendations on all conflicts as described above, and on the resolution of conflicts;
- (3) Review and evaluate state functional plans for conformance with the provisions of this chapter, seek to resolve any identified conflicts, and transmit its findings and recommendations to the legislature at the time of submittal of the functional plan;
- (4) Advise the legislature on the administration, amendment, and review of this chapter, including the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter;
- (5) Prepare guidelines for the development of the state functional plans in accordance with sections 226-57 and 226-58;

- (6) Adopt rules in accordance with section 226-56 to provide procedures for public input into the amendment processes and for submittal of proposed amendments;
- (7) Maintain a record of its activities;
- (8) Conduct a comprehensive review of part I of this chapter at least every four years following enactment by the legislature, and part III of this chapter at least every odd-numbered year to coincide with the state budget process commencing in 1981; and
- (9) Prepare an annual review and report to the legislature in accordance with section 226-63."

SECTION 6. Section 226-55, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-55[] Department of planning and economic development; duties. The department shall provide assistance and staff services to the policy council in administering this chapter. To further the intent and purpose of this chapter, the department shall:

- (1) Provide recommendations to the policy council on conflicts between and among this chapter, state functional plans either adopted by the legislature or to be submitted to the legislature for adoption, county general plans and development plans, and state programs;
- (2) Review and evaluate this chapter and recommend amendments as needed to the policy council;
- (3) Review, as necessary, major plans, programs, projects, and regulatory activities proposed by state and county agencies, and provide advisory opinions and reports to the policy council as needed;
- (4) Analyze existing state policies, planning and program operations, laws, rules and practices relative to formulation, implementation, and coordination of the state plan;
- (5) Review state capital improvement projects for consistency with this chapter and report findings and recommendations to the governor prior to allocation of funds;
- (6) Conduct special studies and prepare reports that address major policy issues relating to statewide growth and development;
- (7) Cooperate with all public agencies to ensure an ongoing, uniform, and reliable base of data and projections;
- (8) Assist the policy council in conducting a comprehensive review of part I of this chapter at least every four years following enactment by the legislature, and part III of this chapter at least every odd-numbered year commencing in 1981;

- (9) Assist the policy council in preparing and submitting an annual review and report to the legislature in accordance with section 226-63;
- (10) Prepare and adopt in consultation with the policy council, administrative guidelines in accordance with this chapter and chapter 91 [by June 30, 1979]; and
- (11) Provide other technical assistance and staff services to the policy council as needed.

The department may contract with public and private agencies and persons for special research and planning assistance."

SECTION 7. Section 226-56, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-56[]] Amendments to the overall theme, goals, objectives, policies, and priority [directions.] guidelines. The policy council shall promulgate rules for amendments to the goals, objectives, policies, and priority [directions.] guidelines, subject to the following provisions:

- (1) Any person may submit to the department proposals for the revision of the overall theme, goals, objectives, policies, and priority [directions;] guidelines;
- (2) The department shall review the proposed amendments to the overall theme, goals, objectives, policies, and priority [directions] guidelines and shall submit its findings and recommendations to the policy council;
- (3) The policy council shall submit its final recommendations on the amendments to the overall theme, goals, objectives, policies, and priority [directions] guidelines to the legislature thirty days prior to the convening of the next legislative session following its review of the proposed amendments, along with minority reports, if any; and
- (4) The policy council, in reviewing the proposed amendments of the department, shall make public its findings and recommendations and shall hold public hearings in each county of the State in accordance with chapter 91. There shall be not less than two public hearings in each county on the recommended revisions to the overall theme, goals, objectives, and policies of the state plan; provided that there shall be not less than three public hearings in the city and county of Honolulu and there shall be not less than one public hearing on each of the islands of Maui, Molokai, and Lanai in the county of Maui."

SECTION 8. Section 226-57, Hawaii Revised Statutes, is amended to read as follows:

“§226-57 Functional plans; preparation. (a) The state agency head primarily responsible for a given functional area shall prepare the functional plan for the area. In the preparation of the functional plan, the state agency head shall work in close cooperation with the advisory committee, respective officials, and people of each county. In the formulation of the functional plan, the preparing agency shall solicit public views and concerns. The formulation and amendment of a state functional plan shall conform to the [state plan and use as a basis] provisions of this chapter and shall take into consideration the county general plans. Functional plans and any amendments thereto shall be adopted by the legislature by concurrent resolution and shall, upon adoption, provide [direction] guidelines to state and county agencies, provided that in the event of a conflict between the proposed functional plan and general plan of a county, every effort shall be made to determine which of the matters in conflict has the greater merit and recommend modifications by the appropriate state or county agency to the proposed functional plan or county general plan. Where such accord cannot be achieved, the policy council shall prepare a report to the legislature citing the differences and the justification for each of the conflicting positions together with recommendation. Minority reports, if any, may be submitted to the legislature.

(b) The functional plan shall contain objectives to be achieved and policies to be pursued in the primary field of activity and such policies shall address major programs and the location of major facilities. [The functional plan shall also contain implementation priorities and actions which may include, but not be limited to, programs, maps, regulatory measures, standards, and interagency coordination provisions.]

(c) For each functional plan, the governor shall establish an advisory committee, where a committee which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be nominated by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The governor shall request the nominations of each of the respective mayors and shall appoint the public official nominated by the mayor of the respective county to serve on the advisory committee. If the nominations of county officials by a mayor are not submitted to the governor within sixty days following the date of the governor's request for such nominations, the governor shall appoint at least one public official from that county to serve on the advisory committee without nominations from that mayor. The committee shall advise the state agency in preparing a functional plan to be in conformance with the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter. The functional plan, with any recommendations of the advisory committee including minority reports, if any, shall be submitted to the policy council for review and

evaluation. The advisory committee shall serve until the respective functional plan is adopted by the legislature.”

SECTION 9. Section 226-58, Hawaii Revised Statutes, is amended to read as follows:

“§226-58 Functional plans; form and submittal. (a) Functional plans shall be prepared to [implement] further define and implement statewide guidelines with respect to the goals, objectives, policies, and priority [directions] guidelines contained within this chapter [and policy council guidelines developed pursuant to this chapter].

(b) A functional plan shall be submitted to the policy council for review and evaluation at least ninety days prior to the date designated for submittal to the legislature. The policy council shall submit findings and recommendations to the legislature on each functional plan reviewed.

(c) The functional plans for agriculture, housing, tourism, and transportation, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1979 legislature. The functional plans for conservation lands, education, energy, higher education, health, historic preservation, recreation, and water resources development, with any findings and recommendations of the policy council, shall be submitted not later than thirty days prior to the convening of the 1980 legislature.

(d) Upon receipt by the legislature of a functional plan prepared by the appropriate state agency and submitted by the governor, with the findings and recommendations of the policy council, the legislature shall review, modify, and as appropriate, adopt the functional plan by concurrent resolution.

(e) If the legislature fails to adopt such functional plan by concurrent resolution, it shall revert to the state agency of origin for revision and be resubmitted thirty days prior to the convening of the next legislature.”

SECTION 10. Section 226-59, Hawaii Revised Statutes, is amended to read as follows:

“[[§226-59[]] Functional plans; implementation. (a) Functional plans shall not be used as a guide [or to implement] nor as a statement or interpretation of state policy unless said plans shall have been approved by the legislature.

(b) The legislature, upon a finding of overriding statewide concern, may determine in any given instance that the site for a specific project may be other than that designated on the county general plan; provided that any proposed facility or project contained in a county general plan shall not require the actual development or implementation of said facility or project or the inclusion of the same in any state functional plan by any state agency. The implementation of

functional plans shall conform to existing laws, rules, and standards, and the provisions of this chapter.”

SECTION 11. Section 226-61, Hawaii Revised Statutes, is amended to read as follows:

“[]§226-61[] **County general plans[; preparations].** (a) The county general plans and development plans¹ formulated with input from the state and county agencies as well as the general public.

County general plans or development plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. The county general plans or development plans shall further define [and implement] applicable provisions of this chapter, provided that any amendment to the county general plan of each county shall not be contrary to the county charter. The formulation, amendment, and implementation of county general plans or development plans shall [utilize as guidelines,] take into consideration statewide objectives, policies, and programs stipulated in state functional plans adopted in consonance with this chapter.

(b) County general plans shall be formulated on the basis of sound rationale, data, analyses, and input from state and county agencies and the general public, and contain objectives and policies as required by the charter of each county. Further, the county general plans should:

- (1) Contain objectives to be achieved and policies to be pursued with respect to population density, land use, transportation system location, public and community facility locations, water and sewage system locations, visitor destinations, urban design and all other matters necessary for the coordinated development of each county and regions within each county.
- (2) Contain implementation priorities and actions to carry out policies to include but not be limited to, land use maps, programs, projects, regulatory measures, standards and principles and interagency coordination provisions.

[(c) The county general plans and development plans shall be in conformance with the overall theme, goals, objectives, policies, and priority directions contained in this chapter by January, 1982.]”

SECTION 12. Section 226-62, Hawaii Revised Statutes, is amended to read as follows:

“[]§226-62[] **State programs.** (a) [State programs shall be in conformance with this chapter.] The formulation, administration, and implementation of state programs shall be in conformance with the overall theme, goals,

objectives, and policies, and shall utilize as guidelines the priority [directions] guidelines contained within this chapter, and the state functional plans adopted pursuant to this chapter.

(b) The director of the department of planning and economic development shall assist the governor in assuring that state programs are in conformance with this chapter."

SECTION 13. Section 226-63, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-63[]] **Annual review and report.** (a) The policy council, with the assistance of the department, shall prepare an annual report for submittal to the legislature, mayors, and county councils. The annual report shall contain recommendations for legislative consideration and action. Major components of the annual review and report shall include the following:

- (1) An assessment of progress being made in attaining the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter and the state functional plans;
- (2) Recommendations [to further implement this chapter and] to improve coordination between and among the overall theme, goals, objectives, policies, and priority [directions] guidelines contained within this chapter, county general plans and development plans, state functional plans, and state programs; and
- (3) An assessment of legislation and programs of the preceding calendar year that have major statewide or countywide impact in terms of their consistency with this chapter.

(b) Prior to the submittal of the annual report to the legislature and the counties, the department shall hold public informational meetings in each county of the State, provided that in the county of Maui there shall be at least one public hearing on Lanai and Molokai.

(c) The annual review and report shall be submitted to the legislature, mayors, and the county councils no later than February 1 of each year."

SECTION 14. Section 226-101, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-101[]] **Purpose.** The purpose of this part is to establish [an] overall priority [direction and implementing actions] guidelines to address areas of statewide concern."

SECTION 15. Section 226-103, Hawaii Revised Statutes, is amended to read as follows:

"[[§226-103[]] **Economic [implementing actions.] priority guidelines.** (a) Priority [actions] guidelines in the area of general business and finance:

- (1) Stimulate the economy to provide needed jobs for Hawaii's people without stimulating unnecessary in-migration.
- (2) Support business expansion and development to achieve a stable and diversified economy.
- (3) Seek different means to assist new and existing businesses in obtaining loans.
- (4) Assist in the development and commercialization of technological advancements.
- (5) Assist local producers in competing with mainland producers.
- (6) Lessen the financial burden on businesses.
- (7) Promote Hawaii as an attractive market for investment activities that benefit Hawaii's people.
- (b) Priority [actions] guidelines for the visitor industry:
 - (1) Foster a social environment which enhances the Aloha Spirit by minimizing inconveniences to Hawaii's people and visitors.
 - (2) Protect the economic health and quality of the visitor industry.
 - (3) Maintain or enhance the quality of existing and future hotels and resort destination areas which conform with regional carrying capacities and state policies providing for adequate shoreline setbacks and beach access.
 - (4) Provide incentives to encourage existing hotel owners to upgrade, repair and maintain visitor facilities.
 - (5) Preserve and enhance Hawaii's significant natural environmental and scenic, historic, and cultural sites.
 - (6) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
 - (7) Adopt a tourism functional plan and management organization to implement tourism plan policies.
 - (8) Coordinate effective tourism promotion abroad.
 - (9) Maintain and enhance visitor satisfaction.
- (10) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
- (11) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
- (c) Priority [actions] guidelines for the sugar and pineapple industries:
 - (1) Provide adequate agricultural lands to ensure the economic viability of the sugar and pineapple industries.
 - (2) Continue efforts to maintain federal support to provide stable sugar prices high enough to allow profitable operations in Hawaii.
 - (3) Support research and development, as appropriate, to improve the quality and production of sugar and pineapple crops.

(d) Priority [actions] guidelines for diversified agriculture and aquaculture:

- (1) Seek to protect prime agricultural and aquacultural land through affirmative and comprehensive programs.
- (2) Seek federal assistance to increase water supply and to improve transmission, storage, and irrigation facilities to promote diversified agriculture and aquaculture.
- (3) Assist small independent farmers in securing land and loans.
- (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
- (5) Encourage and assist with the development of a waterborne and airborne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
- (6) Encourage the use of public and private resources to develop agricultural and aquacultural activities which have economic growth potential.
- (7) Explore new agricultural industries and encourage the expansion of existing agricultural industries that can provide jobs and profitable long-term use of land.
- (8) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
- (9) Continue the development of agricultural parks.
- (10) Expand vocational training programs in agriculture and aquaculture.
- (11) Assist in providing adequate, reasonably priced water for existing agricultural activities.
- (12) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.
- (13) Encourage the expansion of the statewide agricultural base through the promotion of products for export and local consumption.

(e) Priority [action] guideline for developing economic activities to encourage the development of industries which promise long-term growth potential¹ and which have the following characteristics:

- (1) An industry that can take advantage of Hawaii's unique location and available manpower resources.
- (2) A clean industry that would have minimal effects on Hawaii's environment.
- (3) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs.
- (4) An industry that would provide reasonable income and steady employment.

(f) Priority [actions] guidelines for the construction industry:

- (1) Promote a consistent and stable level of construction activity.
- (2) Explore alternatives for more effective management of the growth and development of the State's construction industry.
- (3) Encourage the streamlining of the building and development permit and review process.

(g) Priority [action] guideline for the shipping industry shall be to continue to seek legislation to protect Hawaii from shipping interruptions between Hawaii and the continental United States.

(h) Priority [actions] guidelines for water use and development:

- (1) Encourage water conservation to reduce the per capita water consumption rate through education and the promotion of conservation awareness.
- (2) Assist agriculture in determining the feasibility of using wastewater effluent to irrigate crops.
- (3) Encourage restriction of new urban development in areas where water supply is insufficient for both agricultural and domestic uses.
- (4) Pursue the improvement of irrigation technology to increase the effective and efficient use of water.
- (5) Increase the support for research and development of alternative water sources.

(i) Priority [actions] guidelines for energy use and development:

- (1) Encourage the development of alternative energy sources.
- (2) Encourage development of a program to promote conservation of energy use in the State.
- (3) Encourage future urbanization into easily serviceable, more compact, concentrated developments in existing urban areas wherever feasible to maximize energy conservation.
- (4) Encourage consumer education programs to reduce energy waste and to increase awareness for the need to conserve energy.
- (5) Encourage the use of energy conserving technology and appliances in homes and other buildings.
- (6) Explore possible incentives to encourage the use of alternate energy sources in homes and other buildings.
- (7) Encourage the development and use of energy and cost-efficient transportation systems.

(j) Priority [actions] guidelines for manpower training and development:

- (1) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.
- (2) Encourage the allocation of educational resources to career areas where high employment growth is expected.

- (3) Encourage the expansion of technological research to assist industry development.
- (4) Pursue the establishment of Hawaii's university as the research and training center of the Pacific."

SECTION 16. Section 226-104, Hawaii Revised Statutes, is amended to read as follows:

"[§226-104[]] Population growth and distribution [implementing actions.] priority guidelines. (a) Priority [actions] guidelines to effect desired statewide growth:

- (1) Manage population growth rates throughout the State consistent with available and planned resource capacities.
- (2) Encourage hiring of Hawaii's people by firms doing business in the State.
- (3) Seek federal legislation which would provide federal moneys for social programs, training, housing, and public services to each state proportionate to the number of immigrants received by the State.
- (4) Seek to provide for adequate housing to meet the needs of Hawaii's people without encouraging an additional influx of people.
- (5) Encourage continued low birth rate among Hawaii's populations.
- (b) Priority [actions] guidelines to influence statewide growth distribu-

tion:

- (1) Manage a growth rate for Hawaii's economy that will parallel future employment needs for Hawaii's people.
- (2) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographical area.
- (3) Encourage the location of state and federal agencies on neighbor islands, as appropriate.
- (4) Encourage major state investments to promote economic development and private investment to the neighbor islands, as appropriate.
- (5) Encourage CIP expenditures, public services, and housing developments that recognize the needs and preferences of the counties.
- (6) Explore the possibility of making available urban land, low-interest loans, and housing subsidies to encourage selective economic and population growth on the neighbor islands.
- (7) Seek federal funds and other funding sources outside the state for research, program development, and training to provide future employment opportunities on the neighbor islands.
- (c) Priority [actions] guidelines for regional growth distribution:
- (1) Pursue rehabilitation of appropriate urban areas.

- (2) Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided with reasonable public expenditures. Secondly, encourage urban growth away from areas where other important benefits are present, such as protection of valuable agricultural land or preservation of life styles.
- (3) In order to preserve green belts, give priority to state capital expenditures that encourage locating urban development within existing urban areas in accordance with the following: funding for transportation activities that serve the needs of existing urban areas; allocation of water for urban uses to areas within urban areas; and wherever possible, locate state buildings and facilities within urban centers close to public transportation; except where compelling public interest dictates development of a non-contiguous new urban core.
- (4) Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimal.
- (5) Identify critical environmental areas in Hawaii to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.
- (6) Encourage the location of new industrial development to existing and planned urban areas.
- (7) Seek participation from the private sector for the cost of building infrastructure, utilities, and open spaces.
- (8) Encourage the identification of all areas within the respective jurisdictions where priority should be given to preserving rural character and lifestyle.
- (9) Coordinate planning for wastewater and solid waste disposal with state and county growth objectives."

SECTION 17. Section 226-105, Hawaii Revised Statutes, is amended to read as follows:

"[]§226-105[]] **Hawaii's land resources.** Priority [actions] guidelines for the use of Hawaii's resources:

- (1) Preserve and improve shoreline open spaces and scenic resources.
- (2) Seek to utilize Hawaii's limited land resources wisely in order to insure the protection of the environment and the availability of the

shoreline, conservation lands and other limited resources for future generations.

- (3) Seek to accommodate urban growth in existing urban areas while maintaining agricultural lands in agricultural designation."

SECTION 18. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 19. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

Note

1. So in original.

ACT 237

H.B. NO. 271

A Bill for an Act Relating to the Hawaii State Planning Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish a permanent advisory body for each state agency responsible for administering a state functional plan. The advisory committee shall assist the state agency in the implementation and monitoring of the state functional plans adopted by the legislature.

SECTION 2. Section 226-57, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) For each functional plan, the governor shall establish an advisory committee, where [a committee] an advisory body which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be nominated by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The governor shall request the nominations of each of the respective mayors and shall appoint the public official nominated by the mayor of the respective county to serve on the advisory committee. If the nominations of county officials by a mayor are not submitted to the governor within sixty days following the date of the governor's request for such nominations, the governor shall appoint at least one public official from that county to serve on the advisory committee without nominations from that mayor.

The committee shall advise the state agency in preparing a functional plan to be in conformance with the overall theme, goals, objectives, policies, and

priority directions contained within this chapter. The functional plan, with any recommendations of the advisory committee including minority reports, if any, shall be submitted to the policy council for review and evaluation. [The advisory committee shall serve until the respective functional plan is adopted by the legislature.] After the functional plan is adopted by the legislature, the committee shall advise the state agency in the implementation, monitoring and future updating of the plan.

The advisory committee shall serve as a permanent advisory body to the state agency responsible for preparing each respective functional plan. The terms of members from the public and experts in the field for which a functional plan is prepared shall be for four years. Each term shall commence on July 1 and expire on June 30. No member from the public or expert in the field shall be appointed consecutively to more than two terms."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 238

H.B. NO. 267

A Bill for an Act Relating to the Control of Petroleum Products.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 125C, Hawaii Revised Statutes, is amended by inserting the following material after the chapter heading:

"PART I.
GENERAL POWERS AND PROCEDURES DURING A SHORTAGE"

SECTION 2. Section 125C-1, Hawaii Revised Statutes, is amended to read as follows:

"[]§125C-1[] Findings and purpose. [The limited supply of motor gasoline available to the public during the first few months of 1974, and the panic, disruption, and crisis that accompanied the shortage, clearly demonstrated the necessity for regulatory control to maintain public confidence and order and to effect conservation.] The legislature finds that adequate supplies of petroleum products are essential to the health, welfare, and safety of the people of Hawaii, and that any severe disruption in petroleum product supplies for use within the State would cause grave hardship, pose a threat to the economic well-being of the people of the State, and have significant adverse

effects upon public confidence and order and effective conservation of petroleum products.

The purpose of this chapter is to grant to the governor or his authorized representative the clear authority, when shortages of petroleum products occur or are anticipated, to control the distribution and sale of petroleum products in this State, to procure such products, and to impose rules that will provide extraordinary measures for the conservation of petroleum products and for their distribution and sale in an orderly, efficient, and safe manner."

SECTION 3. Section 125C-2, Hawaii Revised Statutes, is amended to read as follows:

"§125C-2 "Shortage" defined. As used in this chapter, unless otherwise indicated by the context, a "shortage" exists whenever [the average amount of gasoline available for each motor vehicle during a current or forthcoming month is five per cent less than the average amount of gasoline that was available during that month in the immediately preceding two years. The average amount of gasoline available for each motor vehicle during a current or forthcoming month shall be determined by dividing the total approximate amount of gasoline available to motor vehicles for a current or forthcoming month by the total approximate number of registered motor vehicles of record during that same month. The average amount of gasoline that was available during that month in the immediately preceding two years shall be determined by dividing the sum of the total amounts of gasoline that was available to motor vehicles for that month in the immediately preceding two years by the sum of the total numbers of registered motor vehicles of record during that month in the immediately preceding two years.] the governor determines that there is an increase in the demand for any petroleum product which is five per cent or greater during a current or forthcoming month than the average demand for that petroleum product during that month in the immediately preceding two years, and this increase has not been met by an increase of equal magnitude in the available supply of the petroleum product in question; or there is a decrease in the available supply of any petroleum product which is five per cent or greater during a current or forthcoming month than the average supply available during that same month in the immediately preceding two years, and this decrease has not been accompanied by a decline in demand of equal magnitude for the petroleum product in question; and such increase or decrease in the available supply of the petroleum product in question may cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii and may not be responsibly managed within the free market distribution system. The governor shall review the status of a shortage within one hundred twenty days after his initial determination of a shortage as defined under this

chapter; thenceforth, the governor shall conduct a review of the shortage to make a new determination every thirty days until a shortage no longer exists."

SECTION 4. Section 125C-3, Hawaii Revised Statutes, is amended to read as follows:

"[]§125C-3[] Powers in a shortage. [If the governor declares that] When a shortage as defined in section 125C-2 exists, [he] the governor or his authorized representative, to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner, may:

- (1) Control the retail distribution and sale of petroleum products by [promulgating] adopting rules that may include, but shall not be limited to, the following measures:
 - (A) Restricting the sale of petroleum products to specific days of the week, hours of the day or night, odd and even calendar days, and for vehicles having less than a specified amount of gasoline in their tanks, with exceptions for certain designated geographical areas.
 - (B) Restricting sales of petroleum products by dealers to daily allocations determined by dividing the monthly allocation by the number of selling days per month.
 - (C) Requiring dealers to post signs to designate hours of operation and sell-out of daily allocation.
 - (D) Allowing the counties to be exempt from all or portions of a state plan and to operate petroleum product distribution plans tailored to their own specific needs where a county has not exempted itself pursuant to section 125C-11.
 - (E) Instituting a statewide rationing plan.
 - (F) Allowing for special handling for commercial and emergency-user vehicles.
- (2) Require that a percentage of petroleum products not to exceed five per cent be set aside to alleviate hardship as set forth in section 125C-22.
- [(2)] (3) Purchase and resell or otherwise distribute petroleum products[.], and purchase and resell or otherwise distribute ethanol which is produced within the State and which can be used as a substitute for petroleum products.
- [(3)] (4) Receive, expend, or use contributions or grants in money or property, or special contributions thereof for special purposes not inconsistent with this chapter.
- [(4)] (5) Borrow and expend moneys needed to exercise the powers herein granted.

- [(5)] (6) Contract in the name of the State for the purpose of implementing this chapter or any part hereof.
- [(6)] (7) Exercise the powers herein granted to the degree and extent deemed by the governor to be necessary, including the temporary or indefinite suspension of all or part of the measures taken, as the governor deems appropriate.”

SECTION 5. Section 125C-4, Hawaii Revised Statutes, is amended to read as follows:

“§125C-4 [Promulgation,] Adopting, filing, and taking effect of rules. [Upon the occurrence of a shortage,] When a shortage as defined in section 125C-2 exists, the governor or his authorized representative may proceed without prior notice or hearing or upon such abbreviated notice and hearing as he finds practicable to adopt rules authorized under this chapter to be effective for a period of not longer than one hundred twenty days without renewal. Any rule so adopted may be amended or repealed by the governor without prior notice or hearing or upon abbreviated notice and hearing prior to the expiration of the one-hundred-twenty-day period; provided that no amendment shall extend the rule beyond the original period of one hundred and twenty days. To be effective after the one-hundred-twenty-day period, such rules [must] shall be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely suspended by the governor by written declaration filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written declaration by the governor terminating the suspension.”

SECTION 6. Section 125C-7, Hawaii Revised Statutes, is amended to read as follows:

“[[§125C-7[]] **Petroleum products control fund.** There is hereby established in the state treasury a revolving fund to be known as the petroleum products control fund. All fees or charges collected for services furnished or petroleum products sold, all moneys borrowed, and all contributions or grants of money received under this chapter shall be deposited in this fund; provided that the governor may establish other suitable funds in the state treasury for deposit and separate accounting of moneys contributed or granted for special purposes under this chapter. All moneys in the petroleum products control fund are appropriated for the purposes of this chapter and shall be expended by the

governor or his [designated] authorized representative. The governor or his [designated] authorized representative may expend and use the moneys in the petroleum products control fund to purchase petroleum products, to obtain services, equipment, materials, and supplies necessary under this chapter, and to repay moneys borrowed under this chapter."

SECTION 7. Chapter 125C, Hawaii Revised Statutes, is further amended by adding a new part II to read as follows:

"PART II.
HARDSHIP SET-ASIDE AND ALLOCATION OF
PETROLEUM PRODUCTS DURING A SHORTAGE

§125C-21 Definitions.

"Petroleum product" means heating oils, light and heavy diesel oil, motor gasoline, propane, butane, residual fuel oils, and kerosene, except for aviation fuels.

"Prime supplier" means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity which makes the first sale of any liquid fossil fuel into the state distribution system for consumption within the state.

§125C-22 When set-aside required. When a shortage as defined in section 125C-2 exists, all prime suppliers shall set aside supplies of each petroleum product for which there is a shortage. The amount set aside shall be in accordance with the rules adopted by the state energy resources coordinator.

§125C-23 Set-aside system. The state energy resources coordinator shall adopt rules establishing a petroleum products set-aside system. The purpose of this system shall be the protection of public health, safety, and welfare; the maintenance of public services, utilities, and transportation; the maintenance of agricultural operations, including farming, horticulture, dairy, fishing, and related services; the preservation of economically sound and competitive industry, through the equitable acquisition and distribution of petroleum products; and the promotion of efficiency, with minimum economic disruptions, during a shortage of petroleum products. The rules establishing the set-aside system shall be adopted in accordance with chapter 91."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

A Bill for an Act Relating to Self-Service Storage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
SELF-SERVICE STORAGE FACILITIES**

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

- (1) “Last known address” means the address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.
- (2) “Occupant” means a person, or the person’s sublessee, successor, or assign, or who is entitled to the use of designated or individual storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (3) “Owner” means the owner, operator, lessor, or sublessor of a self-service storage facility, an agent thereof, or any other person authorized to manage the facility, or to receive rent from an occupant under a rental agreement, and no real estate license is required.
- (4) “Personal property” means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, household items, motor vehicles, and boats.
- (5) “Rental agreement” means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility.
- (6) “Self-service storage facility” means any real property designed and used for the purpose of renting or leasing designated or individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property, but does not include a garage or other storage area in a private residence. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse, nor a public utility. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to chapter 490, and this chapter does not apply.

§ -2 Owner's lien. The owner of a self-service storage facility and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, incurred pursuant to the rental agreement, and for expenses necessary for the preservation, sale, or disposition of personal property subject to the provisions of this chapter. The lien may be enforced consistent with this chapter. However, any lien on a motor vehicle or boat which has attached and is set forth in the documents of title to the motor vehicle or boat shall have priority over any lien created pursuant to this chapter.

§ -3 Rent due; notice of default and lien. When any part of the rent or other charges due from an occupant remain unpaid for fifteen consecutive days, an owner may deny the right of access to the occupant to the storage space at a self-service storage facility; provided that notice is sent to the occupant's last known address, postage prepaid, containing all of the following:

- (1) A statement of the owner's claim showing the sums due at the time of the notice and the date when the sums became due.
- (2) A statement that the occupant is in default of the rental agreement.
- (3) A statement that the occupant's right to use the storage space will be denied unless and until all sums due are paid by the occupant.
- (4) A notice that the occupant has been denied access to the storage space and that an owner's lien, as provided for in section -2, may be imposed if all sums due are not paid within fifteen days of the notice.
- (5) The name, street address, and telephone number of the owner, or a designated agent, whom the occupant may contact to respond to the notice.

§ -4 Notice of lien. If a notice has been sent, as required by section -3, and the total sum due has not been paid as specified in the notice, the owner may deny an occupant access to the space, enter the space, and remove any property found in the space to a place of safe keeping; provided that the owner shall send to the occupant, addressed to the occupant's last known address, postage prepaid, a notice of lien which shall state all of the following:

- (1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.
- (2) That the stored property is subject to a lien, and the amount of the lien.
- (3) That the owner will seize and take possession of the property to satisfy the lien after a specified date which is not less than fifteen days from the date of mailing the notice unless the amount of the lien is paid.

§ -5 Final demand and notice of sale. If both notices have been sent, as required by sections -3 and -4, and the total sum due has not been paid as

specified in the two prior notices, the owner may prepare for the sale of the occupant's property. The owner shall then send to the occupant, addressed to the occupant's last known address, postage prepaid:

- (1) A notice of final demand and sale which shall state all of the following:
 - (A) That the sums due for rent and charges demanded have not been paid.
 - (B) That the occupant's right to use the designated storage space has been terminated.
 - (C) That the occupant no longer has access to the stored property.
 - (D) That the stored property is subject to a lien and the amount of the lien.
 - (E) That the property will be sold to satisfy the lien after a specified date which is not less than thirty days from the date of mailing the notice unless prior to the specified date, the lien is paid in full.
 - (F) That any excess proceeds of the sale over the lien amount of costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of one year from the sale and that thereafter the proceeds will go to the State under chapter 523.
 - (G) That if the proceeds of sale do not fully cover the amount of lien and costs, the occupant will be held liable for any deficiency.
- (2) An itemized statement of the owner's claim showing all sums due at the time of the notice and the date when sums became due.

§ -6 Method of sale. (a) Fifteen days after sending the final demand and notice of sale, pursuant to section - 5(1), an advertisement of the sale shall be published once a week for two weeks consecutively in a newspaper of general circulation published in the judicial district where the sale is to be held. The advertisement shall include a general description of the goods, the name of the person on whose account they are being stored, the total sums due, and the name and location of the storage facility.

(b) The sale shall be conducted in a commercially reasonable manner; and, after deducting the amount of the lien and costs, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at anytime within one year of the date of sale. Thereafter, the owner shall pay any remaining excess proceeds to the State as provided in chapter 523.

§ -7 Security interests, rights. Any person who has a perfected security interest under chapter 490 may claim any personal property subject to the

security interest and subject to a lien pursuant to this chapter by paying the total amount due, as specified in the final demand and notice of sale. Upon payment of the total amount due, the owner shall deliver possession of the particular property subject to the security interest to the person who paid the total amount due. The owner shall not be liable to any person for action taken pursuant to this section if the owner has fully complied with the requirements of sections -3, -4, and -5.

§ **-8 Payment before sale.** Any person claiming a right to the goods must pay the amount necessary to satisfy the lien and the reasonable expenses incurred for particular actions taken pursuant to this chapter. In that event, the goods shall not be sold, but shall be retained by the owner subject to the terms of this chapter pending a court order directing disposition of the property.

§ **-9 Good faith purchaser.** A purchaser in good faith of goods sold to enforce a lien in favor of the owner on goods stored at a self-service storage facility takes the goods free of any rights of persons against whom the lien was claimed, despite noncompliance by the owner of the storage facility with the requirements of this chapter.

§ **-10 Self-storage contracts.** (a) Each contract for the rental or lease of individual storage space in a self-service storage facility shall be in writing and shall contain, in addition to the provisions otherwise required or permitted by law to be included, a statement that the occupant's property will be subject to a claim of lien and may be sold to satisfy the lien if the rent or other charges due remain unpaid for fifteen consecutive days and that such actions are authorized by this chapter.

(b) This chapter shall not apply, and the lien authorized by this chapter shall not attach, unless the rental agreement or supporting documentation requests, and provides space for, the occupant to give the name and address of another person to whom notices required to be given under this chapter may be sent. If both an address and an alternative address are provided by the occupant, notices pursuant to sections -3 or -4 shall be sent to both addresses. If both addresses are provided by the occupant, the owner shall send the final demand and notice of sale, pursuant to section -5, to both addresses by certified mail, postage prepaid. Failure of an occupant to provide an alternative address shall not affect an owner's remedies under this chapter or under any other provision of law.

§ **-11 Other rights.** Nothing in this chapter shall be construed to impair or affect the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this chapter shall be in addition to all other rights provided by law to a creditor against the creditor's debtor.

§ **-12 Applicability.** This chapter shall only apply to rental agreements entered into, or extended, or renewed after the effective date of this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 240

H.B. NO. 1821-84

A Bill for an Act Relating to Chiropractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 [[NEW]] Repeal dates. (a) [[DELETED]]

1984: [(b)] The following chapters are hereby repealed effective December 31,

- (1) Chapter 436D (Board of Acupuncture)
- [(2)] Chapter 442 (Board of Chiropractic Examiners)
- (3) [(2)] Chapter 448 (Board of Dental Examiners)
- [(4)] [(3)] Chapter 453 (Board of Medical Examiners)
- [(5)] [(4)] Chapter 457 (Board of Nursing)
- [(6)] [(5)] Chapter 447 (Dental Hygienists)

31, 1985: [(c)] [(b)] The following chapters are hereby repealed effective December

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)

31, 1986: [(d)] [(c)] The following chapters are hereby repealed effective December

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)

31, 1987: [(e)] [(d)] The following chapters are hereby repealed effective December

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)

- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

31, 1988: [(f)] (e) The following chapters are hereby repealed effective December

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)
- (7) Chapter 442 (Board of Chiropractic Examiners)

31, 1989: [(g)] (f) The following chapters are hereby repealed effective December

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)"

SECTION 2. Section 442-2, Hawaii Revised Statutes, is amended to read as follows:

"§442-2 License to practice. It shall be unlawful for any person to practice chiropractic without a license. Any person applying for a license to practice chiropractic shall submit an application to the board of chiropractic examiners sixty days prior to the examination. The application shall be accompanied by an examination fee of \$50 and such documents and affidavits as are prescribed by law. The application shall be submitted in accordance with the rules of the board of chiropractic examiners and shall be signed and verified under oath by the applicant, and in addition thereto each applicant shall furnish to the board of examiners:

- (1) An unretouched, unmounted photograph taken within sixty days next preceding the date of the application;
- (2) A photostatic copy of the diploma from a chiropractic college or school[;] holding status with the commission on accreditation as provided in this section;
- (3) After March 1, 1958, satisfactory proof that the applicant has completed two years of liberal arts or science study at a university or college; provided that the foregoing requirement shall not be

applicable to applicants having entered an approved chiropractic college on or before October 31, 1955[.]; and

- (4) Evidence of having attended and graduated from a chiropractic college accredited by, or recognized as a candidate for accreditation by, any chiropractic accrediting agency recognized by the U.S. Department of Education. Students who have matriculated in any chiropractic college prior to the effective date of this provision shall be exempt.

Except in the cases herein otherwise prescribed each applicant shall be a graduate of [an incorporated] a chiropractic school or college [recognized and approved by the board, which teaches a course of not less than forty-two hundred, fifty minute hours, of which six hundred hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors.

The course shall extend over a period of four school terms of at least nine months each, and each applicant shall give satisfactory proof of having attended not less than ninety per cent of such forty-two hundred hours and of having satisfactorily passed the following subjects[;]: anatomy and histology, physiology, bacteriology, hygiene and sanitation, pathology, chiropractic diagnosis or analysis, chiropractic orthopedy, gynecology and obstetrics, symptomatology, chemistry and elementary toxicology, chiropractic analysis and the principles and practice of chiropractic, and technique.] accredited as provided by this section."

SECTION 3. Section 442-3, Hawaii Revised Statutes, is amended to read as follows:

"§442-3 Board of examiners. There shall be a board to be known as the "state board of chiropractic examiners," which shall consist of five members, who shall be appointed by the governor, in the manner prescribed in section 26-34. Three members of the board [must have pursued a resident course in a regularly incorporated chiropractic school or college and must be graduates thereof and hold a diploma therefrom] shall be licensees under this chapter and two shall be public members.

[At least three members of the board shall be licensees hereunder.] No person connected with any chiropractic school or college is eligible to appointment as a member of the board. Each member of the board shall serve without pay; provided[,] that the actual and necessary traveling expenses of the members of the board incurred in connection with the performance of official duties shall be paid by the department of commerce and consumer affairs, upon proper vouchers approved by the department."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect on October 15, 1984.

(Approved June 4, 1984.)

ACT 241

H.B. NO. 1925-84

A Bill for an Act Relating to Tort Liability.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§663- Chiropractic society; peer review committee; no liability; exceptions. (a) As used in this section:

“Chiropractic society” or “society” means any association or other organization of persons engaged in the practice of chiropractic, where a primary purpose of the society is to maintain the professional standards of chiropractors.

“Peer review committee” or “committee” means a committee created by a chiropractic society, whose function is to maintain the professional standards established by the bylaws of the society.

“Relevant” means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the information.

(b) There shall be no civil liability for any member of a peer review committee for any acts done in furtherance of the purpose for which the committee was established; provided that:

- (1) The member was authorized to perform in the manner in which the member did; and
- (2) The member acted without malice after having made a reasonable effort to ascertain the truth of the facts upon which the member acted.

(c) This section shall not be construed to confer immunity from liability upon any chiropractic society, nor shall it affect the immunity of any shareholder or officer of a chiropractic corporation; provided that there shall be no civil liability for any chiropractic society in communicating any conclusions reached by one of its peer review committees relating to the conformance with professional standards of any person engaged in the same profession or occupation as the members of the communicating chiropractic society to a peer review committee or another chiropractic society whose membership is comprised of persons engaged in the same profession or occupation, or to the board of chiropractic examiners having as one of its duties the licensing of persons engaged in the practice of chiropractic or to a government agency charged with

the responsibility for administering a program of chiropractic assistance in which services are provided by private practitioners.

(d) The final peer review committee of a chiropractic society shall report in writing every adverse decision made by it to the board of chiropractic examiners. The report shall be filed within thirty business days following an adverse decision. The report shall contain information on the nature of the action, its date, the reasons for, and the circumstances surrounding the action; provided that specific patient identifiers shall be expunged. If prior to an adverse decision there is a resignation or other voluntary action by the person under investigation as may have been requested or bargained for in lieu of chiropractic disciplinary action, the report shall so state. The board shall prescribe forms for the submission of reports required by this section. Failure to comply with this subsection shall be a violation punishable by a fine of not less than \$100 for each member of the committee.

(e) A committee, in writing, may request an insurance company or employer to release to the committee relevant information or evidence deemed important to the committee and relating to the matters within its jurisdiction.

(f) After having received a written request from a company or person providing information to the committee, the committee shall provide to the company or person the results of their decision within thirty business days following a decision.

(g) Any insurance company or person acting on its behalf or employer who releases information to the committee, whether in written or oral form, pursuant to subsection (e), shall be immune from any civil or criminal liability."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 242

H.B. NO. 1984-84

A Bill for an Act Relating to International Banking.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to expand the types of institutions that may establish an international banking facility (IBF) in the State of Hawaii.

Act 278, Relating to International Banking, was enacted in 1983 enabling the State to gain stature as an international banking center. Since the approval date, two Hawaii-chartered banks have established IBF's. However, by excluding outside banking institutions from participation, Hawaii severely limited its potential role as a Pacific international banking center.

To remedy this situation, the legislature proposes to conform Hawaii's definition of eligible depository institutions with that of the Federal Reserve Board.

SECTION 2. Section 405A-1, Hawaii Revised Statutes, is amended by amending subsection¹ (1) to read as follows:

"[(1) "Bank" includes any organization subject to chapter 403 or 407.]
(1) "Depository institution" shall have the meaning set forth in the regulations of the Board of Governors of the Federal Reserve System (12 CFR 201.2 (a)(1)), including any organization subject to chapter 403 or 407, Hawaii Revised Statutes."

SECTION 3. Section 405A-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"[(a) Except for federal law, any other law to the contrary notwithstanding, any bank organized under chapter 403, or savings and loan association subject to chapter 407, may establish one or more international banking facilities for the purpose of:]

(a) A depository institution, an Edge or Agreement Corporation or United States branch or agency of a foreign bank may establish an international banking facility for the purpose of:

- (1) Making, arranging for, placing, or servicing loans to foreign persons; provided that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is eighty per cent or more owned or controlled, either directly or indirectly, by one or more domestic corporations (other than a bank), domestic partnership, or resident individual, all the proceeds of the loan shall be for use outside of the United States;
- (2) Making or placing deposits of foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities;
- (3) Entering into foreign exchange trading or hedging transactions related to any other transactions described in this paragraph; and
- (4) Accepting deposits from foreign persons."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon approval.

(Approved June 4, 1984.)

Note

1. So in original.

ACT 243

H.B. NO. 2418-84

A Bill for an Act Relating to Chiropractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 442-3, Hawaii Revised Statutes, is amended to read as follows:

"§442-3 Board of examiners. There shall be a board to be known as the "state board of chiropractic examiners," which shall consist of five members, who shall be appointed by the governor, in the manner prescribed in section 26-34. Three members of the board must have pursued a resident course in a regularly incorporated chiropractic school or college and must be graduates thereof and hold a diploma therefrom and two shall be public members.

At least three members of the board shall be licensees hereunder. No person connected with any chiropractic school or college is eligible to appointment as a member of the board. Each member licensed under this chapter shall have practiced chiropractic in this State for at least five years immediately prior to the date of appointment. Each member of the board shall serve without pay; provided[,] that the actual and necessary traveling expenses of the members of the board incurred in connection with the performance of official duties shall be paid by the department of commerce and consumer affairs, upon proper vouchers approved by the department."

SECTION 2. Section 442-5, Hawaii Revised Statutes, is amended to read as follows:

"§442-5 Board's powers. The board of chiropractic examiners may adopt a seal, which shall be affixed to all official acts of the board; adopt from time to time such rules [and regulations] as the board may deem proper and necessary for the performance of its work; examine applicants and issue licenses and order the limitation, restriction, revocation [or], suspension, or placement under probation of licenses to practice chiropractic; summon witnesses and take testimony as to matters pertaining to its duties[.]; promulgate by rule continuing

educational requirements for reregistration of licenses designed to promote the continuing professional competence of licensees and protection of the public. Each member may administer oaths and take affidavits, and do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed."

SECTION 3. Section 442-6, Hawaii Revised Statutes, is amended to read as follows:

"§442-6 Examinations. (a) The board of chiropractic examiners shall meet as a board of examiners for the purpose of conducting examinations on the first Tuesday following the second Monday of April and October of each year, and the board shall meet otherwise regularly on the Thursday nearest the 15th day of March, May, September, and November, and at such other times and places as may be found necessary for the performance of its duties. The office of the board shall be in Honolulu.

(b) Each applicant shall be designated by a number instead of the name, so that the applicant's identity will not be disclosed to the examiners until the papers are graded.

(c) The examinations shall be in the subjects enumerated in section 442-2 and shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The examination shall include both practical demonstration and a written examination. The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners' examination in lieu of the written portion of the state board of [chiropractice] chiropractic examiners' examination. A license shall be granted to any applicant who attains a score of seventy-five per cent, or higher in all subjects and sections of the examination. Any applicant failing to make the required grade, may be reexamined at the next regular examination on all of the subjects mentioned in section 442-2, upon payment of a fee of \$50.

(d) No person licensed as a chiropractic in this State shall use physiotherapy modalities without receiving approval by the board to do so. The board by rule shall establish the criteria and procedures for granting this approval. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities must demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners examination, in addition to the requirements of subsection (c). The board shall require an applicant for approval to use physiotherapy modalities to complete a practical demonstration examination which shall include an examination of the applicant's performance in using physiotherapy treatment techniques and equipment, with emphasis on the more complex and dangerous techniques. The practical demonstration examination

shall use standardized questions of uniform difficulty for each applicant and provide for grading of each applicant by two examiners who shall grade independently and have had appropriate training in calibrated grading procedures.

The board shall adopt rules for granting approval for the use of physiotherapy modalities by persons holding valid, current licenses under this chapter on the effective date of this Act. The board may require any licensed chiropractor to take and pass a written or practical examination before granting approval to use physiotherapy modalities.

(e) For each year of actual practice as a licensed chiropractor in another state the applicant shall be given a credit of one-half per cent up to twenty years maximum to be added to each score for each subject area."

SECTION 4. Section 442-8, Hawaii Revised Statutes, is amended to read as follows:

"§442-8 License form, authority under. One form of license shall be issued which shall be designated "License to Practice Chiropractic" and which shall authorize the holder thereof to practice chiropractic as defined in section 442-1 and also to use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, but shall not authorize the administration of drugs or medicine now or hereafter included in materia medica, or the performance of any surgical operation or the practice of osteopathy, dentistry, or optometry[.]; provided that a holder of a license which has been limited, restricted, or placed under probation may practice chiropractic only within the limitation, restriction, or terms of probation."

SECTION 5. Section 442-9, Hawaii Revised Statutes, is amended to read as follows:

"§442-9 License refusal, revocations, suspension, limitation, restriction, probation, reissuance. (a) The board of chiropractic examiners shall refuse to issue or may order any license issued under this chapter to be revoked [or], suspended, limited, restricted, or placed under probation at any time in a proceeding before the board upon any one or more of the following grounds:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what is popularly known as a "capper" or "steerer";
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful statement in advertising one's practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;

- (7) Advertising directly or indirectly, or in substance upon any card, sign, newspaper advertisement, or other written or printed sign of advertisement that the holder of such license or his employer or employee will treat, cure, or attempt to treat or cure any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) The advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (11) Procuring a license through fraudulent misrepresentation or deceit;
- (12) Professional misconduct or gross carelessness or manifest incapability in the practice of chiropractic;
- (13) Violating section 453-2.

(b) At any time following the suspension [or], revocation, limitation, restriction, or placement under probation of a license, the board may restore such license with all of its original rights and privileges. Any person to whom such rights have been restored shall pay to the secretary the sum of \$25 upon the issuance of a new license.

(c) Any person making application for reinstatement or restoration of a license or the original rights and privileges to practice under a license which has been revoked, suspended, restricted, limited, or placed under probation may be required, as part of the relief granted, to complete an approved course of continuing education or to complete such study or training as the board may require."

SECTION 6. Section 442-10, Hawaii Revised Statutes, is amended to read as follows:

"§442-10 Proceedings for revocation [or], suspension, limitation, restriction, or placement under probation of license. In any proceeding for the revocation [or], suspension, limitation, restriction, or placement under probation of a license under this chapter for any act or condition listed in section 442-9, the person whose license is [sought to be revoked or suspended] the subject of the proceeding shall be given notice and opportunity for hearing in conformity with chapter 91.

In any such proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in such proceeding. The person whose license is [sought in such] the subject of the proceeding [to be revoked or suspended] shall be entitled to require the board or any member thereof to

subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceeding, and shall be entitled to examine any such witness and any other witness in such proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in such proceeding.

If any person called before the board as a witness in such proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member thereof or the person whose license is [sought to be revoked or suspended in such] the subject of the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and such person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under [chapter 729.] section 710-1077.

Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury."

SECTION 7. Section 442-11, Hawaii Revised Statutes, is amended to read as follows:

"§442-11 Biennial registration; fees; failure to register. Every person holding a license to practice chiropractic in the State shall reregister with the [secretary- treasurer] secretary of the board of chiropractic examiners on or before December 31 of each odd-numbered year and shall pay a reregistration fee of \$15. If the board has established continuing education requirements for reregistration, no person holding a license shall be reregistered unless proof of compliance with the requirements is submitted to the secretary. The secretary of the board shall, on or before November 30 of each odd-numbered year, mail to the last known address of all licensed chiropractors a notice thereof.

The failure, neglect, or refusal of any person holding a license to practice chiropractic to reregister or to pay the reregistration fee of \$15, after thirty days of delinquency, constitutes a forfeiture of his license; provided that the license shall be restored upon written application therefor together with proof of compliance with the continuing education requirements, if any, and a payment of all delinquent fees and \$25, if such application and payments are made within a period of one year from the date of the inception of such delinquency. In the event, however, such delinquency is permitted to continue over a period of one

year, in addition to the foregoing requirements, such person shall submit to and successfully pass a reexamination written or oral, conducted by the board at its regular meetings.”

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 244

H.B. NO. 847

A Bill for an Act Relating to Driver Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to improve and expand the department of education’s drivers’ education program.

SECTION 2. Section 294-35.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is assessed and levied upon each insurer and self-insurer, as defined in section 294-2, a drivers’ education fund underwriters’ fee of [one dollar per] \$1.25 a year, on each motor vehicle insured by each insurer or self-insurer. This fee is due and payable in full on an annual basis by means and at a time to be determined by the commissioner.

(b) The commissioner shall deposit these underwriters’ fees into a special drivers’ education fund account which shall be allocated for the fiscal year 1977-78 and the fiscal years thereafter, [fifty] forty per cent to the commissioner which shall be expended for the operation of the driver education program provided for in section 286-128(m) and [fifty] sixty per cent to the superintendent [of the department] of education to support the driver education program administered by the department of education for high school students; provided that all fees received, under [section 294-35.5(a),] subsection (a), which are derived from motorcycles, motor scooters, or similar vehicles, shall be expended by the University of Hawaii community college employment training office for the operation of a driver education program for operators of motorcycles, motor scooters, or similar vehicles.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

A Bill for an Act Relating to Names.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 574-5, Hawaii Revised Statutes, is amended to read:

“§574-5 Change of name: procedure. (a) It shall be unlawful to change any name adopted or conferred under this chapter, except:

- (1) Upon an order of the lieutenant governor; [or]
- (2) By a final order, decree, or judgment of family court issued as follows:
 - (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree; or
 - (B) When in a divorce proceeding either party to the proceeding requests to resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage and the court includes the change of name in the divorce decree;
- (3) Upon marriage pursuant to section 574-1; or
- (4) Upon legitimation pursuant to section 338-21.

(b) The order of change of name by the lieutenant governor shall be founded upon a notarized petition. The petition shall be executed by the person desirous of making the change of name. In the case of a minor, the petition shall be executed:

- (1) By the parents;
 - (2) By the parent who has custody of the minor with the notarized consent of the noncustodial parent; or
 - (3) By the guardian of the person of the minor.
- (c) The filing fee of \$5 shall accompany the petition when submitted.

(d) [The order of] A notice of change of name signed by the lieutenant governor shall be published once in a newspaper of general circulation in the State as mentioned in the order for change of name, and the petitioner within sixty days of the signing of the notice of change of name, shall deposit at the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the [order] notice showing that the [order] notice has been published therein. The affidavit shall have attached to it a clipping showing the [order] notice as published. Failure to deposit the affidavit of publication as required shall void that petition for a change of name by that petitioner.

(e) When the petition is accompanied by an affidavit executed by a prosecuting attorney of this State, the affidavit shall show that for the protection

of the person desirous of making a change of name, the following actions shall not be necessary:

- (1) Publication in a newspaper of general circulation in the State;
- (2) Recordation in the bureau of conveyances; and
- (3) Reporting to the registrar of births.

The petition, affidavit, and order shall be kept confidential."

SECTION 2. Section 574-6, Hawaii Revised Statutes, is amended to read:

"[]§574-6[] Effect of change. The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of [the signing of the order.] publication of the notice of change of name.

In all cases of change of name[,] by the lieutenant governor, except as otherwise provided[,] by law, the order [or decree] shall be recorded in the bureau of conveyances and reported to the registrar of births within sixty days after the signing of the order.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed.

The lieutenant governor shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 246

H.B. NO. 1725-84

A Bill for an Act Relating to Contractor's Bond.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-34, Hawaii Revised Statutes, is amended to read:

"§103-34 Contractor's bond; conditions. Before any contract is entered into, the party with whom the contract is proposed to be made shall give security for the performance thereof by a good and sufficient bond conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to him and used in the prosecution of the

work provided for in the contract[, which]. The bond shall be in an amount equal to fifty per cent of the contract price including amounts estimated to be required for extra work, or in the case of a price-term, open-end, or requirements contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amount shall be as designated in the bid documents[.]; provided that in the case of a contract for the construction of public works, buildings, roads, or other site improvements, the bond shall be in an amount equal to one hundred per cent of the contract price, including amounts estimated to be required for extra work. The bond shall also by its terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by section 507-17."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 247

H.B. NO. 1753-84

A Bill for an Act Relating to the Membership of the Hawaii Fisheries Coordinating Council.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 188E-1, Hawaii Revised Statutes, is amended to read as follows:

"[§188E-1]] Establishment of the Hawaii fisheries coordinating council; membership. There is established within the department of land and natural resources the Hawaii fisheries coordinating council, hereinafter referred to as the council, for the purpose of advising the board of land and natural resources on matters relating to fisheries and the coordination of fisheries activities among the various federal, state, and county agencies and private industry. The council shall be composed of eleven voting members, and no more than ten nonvoting members, as follows:

- (1) Four shall be voting ex officio members to consist of the chairperson of the board of land and natural resources, the director of planning and economic development, the director of transportation, and the marine affairs [coordinator.] advisor.
- (2) Six shall be voting members representing the fishing industry appointed by the governor pursuant to section 26-34; provided that

at least one member shall represent and be selected from each of the several counties of the State.

- (3) One shall be a voting member appointed by the governor pursuant to section 26-34 selected from the State's recreational fishing population.
- (4) There shall be no more than ten nonvoting ex officio members to consist of the respective economic development directors of the city and county of Honolulu, the county of Hawaii, the county of Maui, and the county of Kauai, and may include the director of the University of Hawaii's sea grant program, the chairperson of the Pacific [tuna development foundation,] Fisheries Development Foundation, and the chairperson of the Western Pacific Fisheries Management Council, and such other members as deemed appropriate by the chairperson of the Hawaii fisheries coordinating council.

The chairperson of the board of land and natural resources shall serve as the chairperson of the council. All members of the council shall serve without compensation but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities of the council."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 248

H.B. NO. 1807-84

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 236D-2, Hawaii Revised Statutes, is amended to read:

"[] §236D-2[] **Definitions.** As used in this chapter:

"Decedent" means a deceased individual[.].

"Department" means the department of taxation[.].

"Federal credit" means the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent's adjusted taxable estate[.].

"Gross estate" means gross estate as defined and used in sections 2031 to 2045 of the federal Internal Revenue Code of 1954, as amended or renumbered[.].

"Nonresident" means a decedent who was not domiciled in Hawaii at time of death[;].

"Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof[;].

"Personal representative" means the personal representative of a decedent appointed under chapter 560, and includes an executor (as defined under section 2203 of the federal Internal Revenue Code of 1954), administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status[;].

"Property" means property included in the gross estate[;].

"Release" means a document issued by the department which certifies that all taxes have either been paid or which releases the estate from all taxes due under this chapter[;].

"Resident" means a decedent who was domiciled in Hawaii at time of death[;].

"Section 2011" means section 2011 of the federal Internal Revenue Code of 1954, as amended or renumbered[; and].

"Taxable estate" means taxable estate as defined in sections 2051 to 2056 of the federal Internal Revenue Code of 1954, as amended or renumbered[;].

"Transfer" means transfer as defined and used in section 2001 of the federal Internal Revenue Code of 1954, as amended or renumbered."

SECTION 2. Section 236D-12, Hawaii Revised Statutes, is amended to read:

"[]§236D-12[] Liability for failure to pay tax before distribution or delivery. (a) Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(b) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Hawaii without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this

chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Hawaii by such a person.

(c) For the purpose of this section, persons [who] do not have control, custody, or possession of a decedent's property [include anyone], if they are not [primarily] responsible for paying the tax due under this section [or their], such as transferees, which term includes but is not limited to [mortgagees or pledgees,] stockbrokers or stock transfer agents, banks, and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(d) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release furnished by the department to the personal representative as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after June 30, 1983.

(Approved June 4, 1984.)

ACT 249

H.B. NO. 1811-84

A Bill for an Act Relating to the Waiver of Nonresident Tuition Differential as it Applies to Pacific Island and Foreign Students at the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 304-4, Hawaii Revised Statutes, is amended to read:

"§304-4 Powers of regents; official name. (a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as

may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university.

(b) The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus.

The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities, each of which shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The nonresident tuition differential shall not be applicable to [nonresident students who were enrolled at the university during the fall or spring semester of the 1968-1969 school year, as long as the nonresident students continue to be enrolled at the university as regular students during the next and subsequent academic years, except where such continued enrollment is prevented for good cause as may be determined by the board of regents, nor to nonresidents,] East-West Center student grantees pursuing baccalaureate or advanced degrees, United States military personnel stationed in Hawaii on active duty and their authorized dependents during the period such personnel are stationed in the State, nor to students from any Pacific island or Asian district, commonwealth, territory, or insular jurisdiction, state, or nation which does not provide public institutions of higher learning, nor to employees of the university, their spouses and dependents. The board may waive entirely or reduce the tuition fee or any of the other fees for [any] students, resident or nonresident, who are well qualified or in need of financial assistance, not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the system. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential. The board may waive the nonresident tuition differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State.

(c) The board shall adopt the necessary rules [and regulations] defining residence for tuition purposes herein; provided that the basic rule shall be that a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, his parents or guardians, has been a bona fide resident of this State for at least twelve consecutive months next preceding his registration at the university; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding his registration at the university by his parents or guardians who reside outside of the State.

(d) The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 250

H.B. NO. 1852-84

A Bill for an Act Relating to the Uniform Desertion and Nonsupport Act (Modified).

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Sections 575-2 to 575-4, Hawaii Revised Statutes, are amended to read as follows:

"§575-2 Prima facie evidence; sequestration of money [belonging to husband or parent] for support of [wife] spouse or children. [The absence for a continuous period of six months or over of a husband from his wife or of any parent from his or her child or children under the age of sixteen years without first making suitable provision for the support and maintenance of the wife or child or children, shall be deemed prima facie evidence of desertion and wilful neglect on the part of the husband or parent. In such case, and where it is known that some person has money belonging to the husband or parent,] The absence of any spouse or parent from the other spouse or child or children under the age of sixteen for a continuous period of three months or more without first making suitable provision for the support or maintenance of such spouse, child, or children shall be prima facie evidence of desertion and wilful neglect. In such case, and where it is known that such spouse or parent has money in the possession of a third party, the complaint, made under section 575-3, shall allege [such] the continuous absence [on the part of the husband or parent] by the spouse or parent and the name of the [person] third party [holding] possessing

the money. The court in which the complaint is filed shall issue an order to the [person] third party [holding] possessing the money to appear before it to show cause why the money shall not be applied to the maintenance and support of the [wife] spouse, [or] the child, or children.

If, after a hearing for that purpose, the court is satisfied that there has been a continuous absence [on the part of the husband or parent] by the spouse or parent [as aforesaid] and a failure [on the part of the husband or parent] by the spouse or parent to make suitable provision for maintenance and support, and that there is money in the [hands] possession of the [person] third party [cited before it] belonging to the [husband or parent,] spouse or parent, it shall make an order upon [such person] the third party to apply the money in [such] the sum or sums in [such] the manner and at [such] the time or times as it may determine for the support and maintenance of the [wife] spouse or the child or children; provided[,] that no [such] order to [so] apply the money shall be made unless a copy of the order to show cause is served upon the [husband or parent] spouse or parent prior to the hearing; provided[,] further[,] that if the [husband or parent] spouse or parent cannot be found, the order to show cause shall be published in [such] a newspaper of general circulation and for [such] the time as shall [by the order of the court] be designated[,] by the order of the court.

§575-3 Complaint. Proceedings under this chapter may be instituted upon complaint made under oath or affirmation by the [wife] spouse, [or] child, or children, or either of them, or by any other person or persons, or organization, against any person guilty of either of the above named offenses.

§575-4 Evidence; marriage, paternity, etc. No other or greater evidence shall be required to prove the marriage of the [husband and wife,] spouses, or that the defendant is the [father or mother] parent of the child or children, than is required to prove such facts in a civil action. In no prosecution under this chapter shall any statute or rule of law prohibiting the disclosure of confidential communications between [husband and wife] spouses apply, and both [husband and wife] spouses shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; provided that neither shall be compelled to give self-incriminating evidence [incriminating himself or herself]. Proof of the desertion of the [wife,] spouse, child, or children in destitute or necessitous circumstances, or of neglect or refusal to provide for the support and maintenance of the [wife,] spouse, child, or children, shall be prima facie evidence that the desertion, neglect, or refusal is wilful."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 251

H.B. NO. 1932-84

A Bill for an Act Relating Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 334, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . INVOLUNTARY OUTPATIENT TREATMENT

§334- Criteria for involuntary outpatient treatment. A person may be ordered to obtain involuntary outpatient treatment if the family court finds that:

- (1) The person is suffering from a severe mental disorder or from substance abuse; and
- (2) The person is capable of surviving safely in the community with available supervision from family, friends, or others; and
- (3) The person, at some time in the past: (a) has received inpatient hospital treatment for a severe mental disorder or substance abuse, or (b) has been imminently dangerous to self or others as a result of a severe mental disorder or substance abuse; and
- (4) The person, based on the person's treatment history and current behavior, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; and
- (5) The person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
- (6) There is a reasonable prospect that the outpatient treatment ordered will be beneficial to the person.

§334- Definitions. For the purposes of this part:

"Outpatient treatment" includes medication specifically authorized by court order; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; supervision of living arrangements; and any other services prescribed to either alleviate the person's disorder or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for hospitalization.

"Outpatient treatment psychiatrist" means the psychiatrist who is responsible for the management and supervision of a person's outpatient treatment under order of the court.

"Subject of the order" means a person who has been ordered by the court to obtain outpatient treatment.

“Subject of the petition” means the person who, under a petition filed under section 334- , is alleged to meet the criteria for involuntary outpatient treatment.

§334- Petition. (a) Any person may file a petition with the family court alleging that another person meets the criteria for involuntary outpatient treatment. The petition shall state:

- (1) Each of the criteria numbered (1) through (6) for involuntary outpatient treatment, as set out in section 334- ;
- (2) Petitioner’s good faith belief that the subject of the petition meets each of criteria numbered (1) through (4);
- (3) Facts which support petitioner’s good faith belief that the subject of the petition meets each of the criteria numbered (1) through (4), provided that the hearing on the petition need not be limited to the stated facts; and
- (4) That the subject of the petition is present within the county where the petition is filed.

The petition shall be executed subject to the penalties of perjury. The petition need not express any belief, or state any supporting facts, with reference to criteria (5) and (6), but all six criteria will be addressed at the hearing.

(b) The petition may, but need not, be accompanied by any statement of a licensed psychiatrist or other mental health professional who has examined the subject of the petition at any time prior to the submission of the petition.

(c) If the subject of the petition has refused to submit to examination by a licensed psychiatrist, the fact of the refusal shall be alleged in the petition.

§334- Hearing date. The family court shall set a hearing date on a petition as soon as possible, but within ten days after filing of the petition.

§334- Notice. (a) Notice of the hearing shall be:

- (1) Served personally on the subject of the petition pursuant to family court rules; and
- (2) Delivered personally or mailed by certified or registered mail, return receipt requested, deliverable to addressee only, to as many as are known to the petitioner of the subject’s spouse, legal parents, adult children, and legal guardian, if one has been appointed. Petitioner shall certify that such notices have been mailed, and to whom, but proof of receipt of such notices is not required. Notice shall also be served on any other person that the court designates.

(b) The notice shall include the following:

- (1) The date, time, place of hearing, a clear statement of the purpose of the hearing and possible consequences to the subject, and a statement of the legal standard upon which involuntary outpatient treatment is authorized;
- (2) A copy of the petition; and

- (3) Notice that the subject of the petition is entitled to be represented by an attorney, and that the court will appoint a public defender or other attorney for the subject if the subject desires one and is indigent.

(c) The family court may continue a hearing for failure to timely notify a person entitled to be notified.

§334- Hearing. (a) The time and form of the procedure incident to hearing the issues in the petition shall be provided by family court rule and consistent with this part.

(b) The hearing may be held at any convenient place within the circuit. The subject of the petition, any interested person, or the family court upon its own motion may request a hearing in another court because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition.

(c) The hearing shall be closed to the public, unless the subject of the petition requests otherwise.

(d) The subject of the petition shall be present at the hearing. However, if the subject has been served with the petition and does not appear at the hearing, the court, in its discretion, may go forward with the hearing.

(e) The subject of the petition need not, but may, be represented by an attorney. If the subject desires an attorney and is indigent, or if the family court determines that the legal or factual issues raised are of such complexity that the assistance of an attorney is necessary for an adequate presentation of the merits or that the subject of the petition is unable to speak for the subject's self, the family court shall order the appointment of a public defender or other attorney to represent the subject and continue the hearing for not more than five days.

(f) If the subject of the petition is represented by an attorney, the attorney shall be allowed adequate time for investigation of the matters at issue and preparation. The attorney shall be permitted to present evidence believed necessary for proper disposition of the proceeding.

(g) No subject of the petition shall be ordered to receive involuntary outpatient treatment unless at least one psychiatrist testifies in person at the hearing who has personally examined the subject within the time period commencing five calendar days before the filing of the petition and ending at the time of the psychiatrist's testimony. The psychiatrist's testimony shall state the facts which support the allegation that the subject meets all the criteria for involuntary outpatient treatment, the recommended outpatient treatment, and the rationale for the recommended outpatient treatment.

If the recommended outpatient treatment includes medication, the psychiatrist's testimony shall describe the types or classes of medication(s) which should be authorized, and describe the physical and mental beneficial and detrimental effects of such medication(s).

If the subject of the petition has refused to be examined by a licensed psychiatrist, the family court may request the subject to consent to examination by a psychiatrist appointed by the court or employed at a community mental health center. If the subject of the petition does not consent and the family court finds sufficient evidence to believe that the allegations in the petition are true, the family court may order the commitment of the subject to a psychiatric facility for examination. The commitment shall not be for more than twenty-four hours. The examining psychiatrist shall submit the findings and recommendations to the family court.

The subject of the petition's refusal to submit voluntarily to examination shall be treated as a denial that the subject is suffering from a severe mental disorder or substance abuse, and a denial that the subject otherwise fits within the criteria for a court order of involuntary outpatient treatment.

Nothing herein shall be construed in a way that limits the subject of the petition's privilege against self-incrimination.

(h) The subject of the petition may secure one or more psychiatric examinations and present the findings as evidence at the hearing. The subject shall be entitled to a psychiatric examination at a community mental health center if the subject so desires, and if an examination has not already been conducted at a community mental health center which will lead to psychiatric testimony at the hearing.

§334- Disposition. (a) If after hearing all relevant evidence, including the results of an examination ordered by the family court, the family court finds that the subject of the petition does not meet the criteria for involuntary outpatient treatment, the family court shall dismiss the petition.

(b) If after hearing all relevant evidence, including the results of an examination ordered by the family court, the family court finds by clear and convincing evidence that the subject of the petition meets the criteria for involuntary outpatient treatment, the family court shall order the subject to obtain outpatient treatment for a period of not more than 180 days. The order shall also state the outpatient treatment which the subject is to obtain.

If the court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended medication(s) outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of medication(s) to be included in outpatient treatment in the discretion of the outpatient treatment psychiatrist.

The court order shall also state who should receive notice of intent to early discharge in the event that the outpatient treatment psychiatrist determines, prior to the end of the court ordered period of treatment, that the subject should be early discharged from outpatient involuntary treatment.

(c) The family court shall also designate on the order the outpatient treatment psychiatrist who is to be responsible for the management and

supervision of the subject's outpatient treatment, or shall designate an administrator of a community mental health center to, in turn, designate such an outpatient treatment psychiatrist during the treatment period without court approval, and may designate either a publicly employed psychiatrist, or a private psychiatrist, provided that the private psychiatrist shall agree to the designation.

§334- Treatment costs and fees. Private treatment pursuant to the court order shall be at the expense of the subject of the petition, except to the extent such charges are covered by other laws or programs. Treatment through a community mental health center shall be pursuant to its fee schedules; however, the subject of the order shall not be denied treatment by a community mental health center for failure to pay such fees.

§334- Failure to comply with outpatient treatment. (a) An outpatient treatment psychiatrist may prescribe or administer to the subject of the order reasonable and appropriate medication, if specifically authorized by the court order, and treatment which is consistent with accepted medical standards and the family court order.

(b) No subject of the order shall be physically forced to take medication or forcibly detained for treatment under a family court order for involuntary outpatient treatment.

(c) The outpatient treatment psychiatrist or psychiatrist's designee shall make all reasonable efforts to solicit the subject's compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the outpatient treatment psychiatrist shall so notify the court and may submit a petition under part IV for the involuntary hospitalization of the subject, provided that the refusal of treatment shall not constitute evidence toward any of the criteria for involuntary hospitalization.

§334- Discharge. An outpatient is automatically and fully discharged at the end of the family court ordered period of outpatient treatment, a period of not more than 180 days, unless a new family court order has been obtained as provided hereinbelow.

§334- Early discharge. An outpatient treatment psychiatrist shall commence the early discharge procedure for a subject of the order if the outpatient treatment psychiatrist finds that the subject no longer meets the criteria for involuntary outpatient treatment.

The outpatient treatment psychiatrist shall send to the clerk of the family court which issued the order for involuntary outpatient treatment, notification that in the psychiatrist's opinion the subject of the order should be discharged prior to the end of the period specified in the court order.

The clerk of the court shall then prepare and mail to the persons whom the family court order specified are entitled thereto, a notice of intent of early discharge. The notice of intent of early discharge shall be mailed at least five days prior to the intended date of discharge.

(b) If no objection is filed under section 334- within five days of the mailing of notice, the family court shall enter an order of discharge, and subject of the order is thereupon fully discharged from involuntary outpatient treatment and the clerk of the family court shall promptly so notify the subject of the order.

§334- Objection to discharge. Any person who has received a notice of intent to early discharge a subject of the order may file an objection with the family court. Upon receipt of an objection, the family court shall hold a hearing on the discharge. The hearing shall be conducted as provided under section 334- .

If the family court finds by clear and convincing evidence that the subject of the order continues to meet the criteria for involuntary outpatient treatment, the family court shall order the subject to continue the outpatient treatment for the unexpired period of its earlier order.

If the family court finds that the subject of the order does not meet the criteria for involuntary outpatient treatment, the family court shall dismiss the objection and order the early discharge of the subject.

§334- Petition for additional period of treatment; hearing. Prior to the expiration of the period of involuntary outpatient treatment ordered by the family court, any person, including an outpatient treatment psychiatrist, may file a petition with the family court for an order of continued involuntary outpatient treatment. The petition shall be filed and notice provided in the same manner as under sections 334- and 334- .

The family court shall hold a hearing on the petition and make its decision in the same manner as provided under sections 334- to 334- . The family court may order the continued involuntary outpatient treatment for not more than 180 days after the date of the hearing pursuant to this section.

This section shall be in addition to the provisions on the objection to discharge.

§334- Hearing for discharge. Any person may petition the family court for the discharge of an order of involuntary outpatient treatment during the period of outpatient treatment if more than sixty days after the most recent hearing involving the subject of the order. The petition shall be filed, notice given, hearing held, and order made in the same manner as provided for the original petition alleging that the subject of the order met the criteria for involuntary outpatient treatment.”

SECTION 2. Section 802-1, Hawaii Revised Statutes, is amended to read as follows:

“§802-1 Right to representation by public defender or other appointed counsel. Any indigent person who is (1) arrested for, charged with or convicted of an offense or offenses punishable by confinement in jail or prison or for which

such person may be or is subject to the provisions of chapter 571; or (2) threatened by confinement, against his will, in any psychiatric or other mental institution or facility[.]; or (3) the subject of a petition for involuntary outpatient treatment under chapter 334 shall be entitled to be represented by a public defender. If, however, conflicting interests exist, or if the public defender for any other reason is unable to act, or if the interests of justice require, the court may appoint other counsel.

The appearance of the public defender in all judicial proceedings shall be subject to court approval.

The appearance of a public defender in all hearings before the Hawaii paroling authority or other administrative body or agency shall be subject to the approval of the chairman of the Hawaii paroling authority or the administrative head of the body or agency involved."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 252

H.B. NO. 1956-84

A Bill for an Act Relating to Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$15.98 for each of their respective employee-beneficiaries and \$49.14 for each respective employee-beneficiary with a dependent-beneficiary, except that contributions for those employees specified in section 87-1(5)(A)(ix) who retire after June 30, 1984 with at least five years but fewer than ten years of credited service, excluding sick leave, shall be \$21.70 for each such employee and \$66.70 for each such employee with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan; provided that the monthly contributions shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. The monthly contribution shall be based upon the HMSA regular plan rates which are approved by the board."

SECTION 2. Section 87-6, Hawaii Revised Statutes, is amended to read as follows:

"§87-6 Contributions by an employee-beneficiary. (a) Each employee-beneficiary shall make a monthly contribution to the fund amounting to the difference between the monthly charge of the health benefits plan selected by the employee-beneficiary and the State's and county's contributions to the fund.

(b) During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that his contribution be withheld and transmitted to the fund monthly by the comptroller, county auditor, or finance officer from whom he receives his compensation, pension, or retirement pay. If, however, an employee-beneficiary's contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay his monthly contribution (1) directly to the fund by the tenth day of each month, in the case of an employee-beneficiary who normally receives his compensation from the comptroller of the State, or (2) in the case of all other employee-beneficiaries, to the respective county auditor or finance officer from whom he normally receives his compensation for transmittal to the fund by the tenth day of each month.

(c) Notwithstanding any other law to the contrary, the beneficiary of an employee who is killed in the performance of his duty, an employee-beneficiary who [is a retired employee,] retired before July 1, 1984, an employee-beneficiary who retired after June 30, 1984 and who had ten years or more of credited service, excluding sick leave, or upon his death his beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the [beneficiary of an employee who is killed in the performance of his duty, an employee-beneficiary who is a retired employee, or upon his death his beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary as described in section 87-1(6).] persons identified in this subsection shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1984.

(Approved June 4, 1984.)

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-1, Hawaii Revised Statutes, is amended to read as follows:

“§408-1 Application of chapter. This chapter may be cited as the Industrial Loan Companies Act and shall be applicable to every person[, firm, partnership, company, corporation, and unincorporated association engaged in or attempting] who engages in or attempts to engage in the business [as] of an industrial loan company [or which hereafter is organized for the purpose of engaging or attempting to engage in the industrial loan business, as defined in this chapter, and which charges, contracts for, or receives on any loan a greater rate of interest, discount, or consideration than would be permissible under section 478-3].”

SECTION 2. Section 408-1.1, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 408-2, Hawaii Revised Statutes, is amended to read as follows:

“§408-2 Definitions. As used in this chapter and unless a different meaning appears from the context:

[“Company” means any person, firm, partnership, corporation, and unincorporated association to which this chapter is applicable and includes any foreign corporation doing business in the State.

“Bank examiner” means the bank examiner of the State.

“Industrial loan company” means any person, firm, partnership, corporation, and unincorporated association organized or which may hereafter be organized, and which is engaged in or may hereafter be engaged in the lending of money to be repaid weekly, monthly, or other periodic installments of principal sums as a business; provided that this definition shall not be construed to include banks, trust companies, building and loan associations, or mortgage companies whose principal business consists of loans for the purchase of homes (if investment certificates issued by the mortgage companies are secured by mortgage and if the appraised value of the mortgaged property is thirty-three and one-third per cent in excess of the total of the certificates the mortgage secures), the credit unions, pawnbrokers, or licensees under chapter 409.

“Engaging in the business of an industrial loan company” or “carrying on the business of an industrial loan company” or “the industrial loan business” or any other term of similar import, means and includes the loaning of money to be repaid in weekly, monthly, or other periodical installments of principal sums,

and the charging, receiving, or requiring of compensation, interest, discount, fees, or charges of whatever nature or kind for the use of the money, in excess of the charges permitted by section 478-3; provided that direct financing to customers by mercantile firms or persons engaged in the mercantile business shall not be deemed engaging in the business of an industrial loan company; nor shall the loaning by an individual of his own funds be deemed engaging in such business, unless he charges, contracts for, or receives on any loan a greater rate of interest, discount, or consideration than would be permissible under section 478-3.

“Firm” means a partnership or an unincorporated association.

“Principal” or “principal amount” means the face amount of the note or other contract concerned.

“Contract” includes promissory notes.

“Affiliate” means any corporation, partnership, venture, business trust, association, or other similar organization:

- (1) Of which the industrial loan company, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty per cent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or
- (2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by shareholders of the industrial loan company who own or control either a majority of the shares of such company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or by the trustees for the benefit of the shareholders of any such company; or
- (3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of the industrial loan company; or
- (4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of the industrial loan company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or controls in any manner the election of a majority of the directors of such company, or for the benefit of whose shareholders all or substantially all the capital stock of such company is held by trustees.

“Person” means not only individuals but also partnerships, corporations, firms, associations, and federal, state and municipal governments.

“Primary obligor” means a person legally bound to comply with a demand for satisfaction of any security. This definition shall include the maker or endorser of a note, the corporate issuer of stock, and the issuer of any security or of any other evidence of indebtedness.

“Open-end loan” means a loan made by a licensee under this chapter pursuant to an agreement between the licensee and the borrower whereby:

- (1) The licensee may permit the borrower to obtain advances of money to the borrower from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;
- (2) The amount of each advance and permitted interest and other charges are debited to the borrower’s open-end loan account and payments and other credits are credited to the same account;
- (3) Interest and charges are computed on the unpaid principal balance or balances of the open-end loan account from time to time; and
- (4) The borrower has the privilege of paying either the full amount of the open-end loan account or periodic installments of fixed or determinable amounts as provided in the agreement.

“Billing cycle” means the time interval between periodic billing dates. Such intervals may be considered equal intervals of time unless the billing date varies by more than four days from the regular billing date.]

“Affiliate” means any corporation, partnership, venture, business trust, association, or any other similar organization:

- (1) Of which the industrial loan company, directly or indirectly, owns or controls either a majority of the voting shares or more than fifty per cent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or
- (2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by shareholders of the industrial loan company who own or control either a majority of the shares of such company or more than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or by the trustees for the benefit of the shareholders of any such company; or
- (3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of the industrial loan company; or
- (4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of the industrial loan company or more

than fifty per cent of the number of shares voted for the election of directors of such company at the preceding election, or controls in any manner the election of a majority of the directors of such company, or for the benefit of whose shareholders all or substantially all the capital stock of such company is held by trustees.

“Bank examiner” means the bank examiner of the State.

“Billing cycle” means the time interval between periodic billing dates.

“Company” means any person to which this chapter or any portion of this chapter is applicable. The term “company” includes any foreign corporation doing business in the State.

“Consumer loan” means a loan made to a natural person primarily for a personal, family, or household purpose (1) in which the principal amount does not exceed \$25,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding \$25,000, or (2) such loan is secured by real property, or by personal property used or expected to be used as the borrower’s principal dwelling.

“Contract” means credit agreements, loan agreements, promissory notes, and other documents constituting the contract for credit.

“Engage in the business of an industrial loan company” or “carry on the business of an industrial loan company” or “the industrial loan business” or any other term of similar import, means the loaning of money and charging, contracting for, or receiving interest, fees, compensation, or charges of whatever nature or kind for the use of money where the interest charged, contracted for, or received is in excess of the interest permitted by law other than this chapter; provided that direct financing to customers by mercantile firms or by persons engaged in the mercantile business shall not be deemed engaging in business as an industrial loan company.

“Industrial loan company” means any person who engages in the industrial loan business as defined in this chapter; provided that this definition shall not be construed to include banks, trust companies, savings and loan associations, credit unions, mortgage companies, pawnbrokers, or licensees under chapter 409. As used in this chapter the term “savings and loan association” includes “building and loan association”.

“Interest” includes interest, discount, points, loan fees, and loan origination charges, if charged, contracted for, or received for the use of money, but excludes other charges, including the charges permitted by section 408-15(e) and (j).

“Licensee” means any company holding a license issued pursuant to this chapter.

“Open-end loan” means a loan made by a licensee under this chapter pursuant to an agreement between the licensee and the borrower whereby:

- (1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;
- (2) The amount of each advance and allowable interest and other charges are debited to the borrower's open-end loan account and payments and other credits are credited to the same account;
- (3) Interest and other charges are computed on the unpaid principal balance or balances of the open-end loan account from time to time; and
- (4) The amount of credit extended to the borrower (up to any limit set by the licensee) is generally made available to the extent any outstanding balance is repaid.

"Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or governmental unit.

"Primary obligor" means a person legally bound to comply with a demand for the satisfaction of any security. This definition includes the maker or endorser of a note, the corporate issuer of stock, and issuer of any security or of any other evidence of indebtedness.

"Principal" or "principal amount" means the face loan amount of the note or other form of contract.

"Section 408-3 loan" means a loan for which the interest is computed in a manner permitted by section 408-3.

"Truth in Lending Act" means the federal Truth in Lending Act (15 U.S.C. 1601, et seq.), Regulation Z of the Board of Governors of the Federal Reserve System, and the Official Staff Commentary to Regulation Z prepared by the staff of the Federal Reserve Board, and amendments of the Act, Regulation Z and such Commentary."

SECTION 4. Section 408-7, Hawaii Revised Statutes, is amended to read as follows:

"§408-7 License required. [Every company charging, contracting for, or receiving on any loan a greater rate of interest than permitted by section 478-3, which may hereafter engage in the industrial loan business shall obtain] No company shall engage in the industrial loan business without first obtaining a license to engage in such business in the manner and subject to the conditions provided in this chapter [provided].

Any company obtaining such a license shall be subject to this chapter and shall possess all of the benefits, rights, powers, and privileges and shall be subject to all of the duties, restrictions, and limitations contained in this chapter. No company [which fails to obtain, in the manner herein provided, a license, as

aforesaid,] shall possess or exercise, [unless expressly given and possessed or exercised under other laws,] as a licensee, any of [the] a licensee's benefits, rights, [power,] powers, or privileges [which are herein] as conferred [upon licensees.] by this chapter unless such company obtains a license pursuant to this chapter."

SECTION 5. Section 408-9, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 408-15, Hawaii Revised Statutes, is amended to read as follows:

"§408-15 Interest [rates; late charges]; other charges; refunds; open-end loans. (a) [No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration] A licensee shall have the right to charge, contract for, and receive on any loan made by it [except], interest, fees, and other charges as provided by this section[;] or as permitted by any exemption provided under chapter 478[.] or as otherwise permitted by law, and may make loans not governed by the provisions of this chapter applicable to loans if the rate of interest on such loans is permitted by law other than this chapter.

(b) Advance interest [or discount. An industrial loan company] on section 408-3 loans. A licensee may charge, contract for, and receive[, or collect] in advance interest [or discount] at any rate which does not exceed the [following] maximum rate allowed by this subsection, for the particular period and type of contract [hereinafter] set forth[.] in this subsection, computed in [the] any manner [set forth in] permitted by section 408-3, at the inception of the contract[, to wit]:

- [(1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3 at the inception of the contract.
- (2) (1) Where interest is [payable] paid or deducted in advance upon a contract [payable in a period of more than eighteen months], it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months[.] (or portion thereof), plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof), of such period, as the case may be.

Interest shall not be [deductible] paid or deducted in advance on section 408-3 loans for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be paid or deducted in advance under this [section] subsection is computed as follows:

12 per cent a year of \$120 for the first 18 months\$21.60
 9 per cent a year of \$120 for the next 6 months \$5.40
 Total interest [deductible] paid or deducted in advance [from principal amount of the contract] \$27.00)

- [(3)] For loans made or committed to after May 31, 1980 and prior to July 1, 1985, the maximum rates of interest specified in [paragraphs (1) and (2) of] this subsection shall be as follows: A maximum rate of interest specified as twelve per cent a year shall be fourteen per cent a year, a maximum rate of interest specified as nine per cent a year shall be ten and one-half per cent a year, a maximum rate of interest specified as six per cent a year shall be seven per cent a year, and a maximum rate of interest specified as three per cent a year shall be four per cent a year. This paragraph shall not apply to loans made or committed to before May 31, 1980.
- [(4)] In addition to requiring and collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments.
- (5) Late charges on delinquent installments. In addition to requiring and collecting or deducting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of late charges not to exceed twelve per cent a year on any contractual installment or portion thereof which remains unpaid on the due date of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon. The company shall give the borrower written notice of the assessment of late charges prior to the due date for the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract. This paragraph shall not apply to open-end loans.
- (6)] (2) After maturity interest charges. Upon maturity of the contract, the rate of interest when computed under this subsection on the unpaid principal balance of the loan shall be [eighteen per cent a year or the original contract rate of interest, whichever is less. This paragraph shall not apply to open-end loans.] twenty- four per cent

a year unless a lesser rate is specified in the contract as an after-maturity interest rate.

- (3) Refunds; prepayment. On a contract for a section 408-3 loan on which interest has been collected or deducted in advance, and which then is paid (including refinancing) or on which judgment then is obtained, before maturity, the borrower shall be entitled to a refund of unearned interest in an amount computed on that portion of the principal amount which has not yet matured, at the same rate of interest as was charged at the time the contract was made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided that no refund less than \$1 need be made and the licensee shall not be required to refund any portion of the unearned interest which results in a minimum interest retained on the contract of less than \$15; and provided that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each licensee shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date if the contract has been in effect for a period of at least three months.

(c) Simple interest loans. As an alternative to the interest authorized by subsections (b) and (d):

- (1) A licensee may contract for, charge, and receive interest computed at a rate not exceeding twenty-four per cent a year on the principal balance remaining unpaid from time to time under the contract whether or not the interest rate under the contract is a fixed or variable rate; provided that for loans committed to and made after July 1, 1985, the maximum rate of interest permitted by this subsection shall be eighteen per cent a year. Upon maturity, the rate of interest on the unpaid principal balance of the loan shall be twenty-four per cent a year, unless a lesser rate is specified in the contract as an after-maturity interest rate, or in the case of any extension or deferral, the rate of interest permitted shall be that permitted by this subsection on the amount extended or deferred.
- (2) For loans made or committed to before May 31, 1980 and extended or deferred at maturity after May 31, 1980, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to before May 31, 1980, except loans made or committed before May 31, 1980 and extended or deferred as provided in this paragraph.
- (3) On all loans where the interest rate is computed in accordance with this subsection, a licensee shall have the right to charge, contract

for, and receive discount, points, loan fees, and loan origination charges; provided that on consumer loans where the interest rate is computed in accordance with this subsection, such discount, points, loan fees, and loan origination charges shall be permitted only if the loan is secured by an interest in real property. Except for open-end loans, such discount, points, loan fees, and loan origination charges shall be included as interest for purposes of determining compliance of the loan with the interest rate limits provided in this subsection when the contract is made. Such discount, points, loan fees, and loan origination charges shall be fully earned on the date the loan is made and shall not be subject to refund upon prepayment of the loan.

(d) Alternative permissible rate. As a further alternative to the interest authorized by subsections (b) and (c), a licensee may on any loan, charge, contract for, and receive a "finance charge" in any form or forms at an "annual percentage rate" not to exceed the maximum per cent a year figure then permitted for simple interest loans authorized under subsection (c)(1), together with any other charges that are excluded or excludable from the determination of finance charge under the Truth in Lending Act. The terms "finance charge" and "annual percentage rate" as used in this subsection shall have the meanings given them in the Truth in Lending Act.

The rate in this subsection shall be available as an alternative permissible rate for any loan, whether or not the Truth in Lending Act applies to the transaction, notwithstanding the advance, fixed, or variable manner in which interest or finance charge may be computed under the contract, and whether or not the contract uses the terms interest or annual percentage rate or finance charge or any combination of such terms.

For rate computation purposes the licensee conclusively shall be presumed to have given all disclosures in accordance with the terms of the contract that are contemplated by the Truth in Lending Act, including those necessary to exclude any charges from the finance charge.

(e) Late charges. On any loan a licensee may charge, contract for, and receive late charges as provided in the contract on any delinquent installment or portion thereof where there has been no extension or deferment by mutual agreement or where payment of the amount extended or deferred is delinquent; provided that late charges on any consumer loan shall not exceed five per cent of the delinquent installment and late charges shall not be assessed on a consumer loan after acceleration of the maturity of the contract. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. On a consumer loan the licensee shall give the borrower written

notice of the assessment of late charges prior to the due date of the next contractual payment.

[(c)] (f) Fraction of a month. In computing interest for any of the purposes of this section, late charges under subsection (e), or interest refunds under [subsection (f),] subsection (b)(3), for any period, any fraction of a month [shall] may be considered as a whole month.

[(d)] (g) [Where not an installment contract.] Repayment terms. Nothing in this chapter shall be deemed to prohibit [an industrial loan company] a licensee from lending money upon a contract to repay the principal amount at the end of the maturity period, [instead of] or in installments, [under which contract] or upon demand, or otherwise as agreed in the contract, whether or not interest is [either] collectible or deductible in advance[, or is payable in weekly, monthly, or other periodic installments, or at the end of such period,] under the contract, provided the interest payable or paid is not in excess of the maximum prescribed by this section [for loans repayable in installments of principal].

[(e)] (h) Application, licensees only. No person[, firm, or corporation (not holding a license issued under this chapter)] shall charge, contract for, [collect,] or receive interest[, discounts, fees, charges, or other consideration] on any loan in the amount or in the manner provided in this section unless permitted so to do by other state law.

[(f)] Refunds; prepayment. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of the principal amount which has not yet matured, at the same rate of discount or interest as was charged at the time the contract was made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided that no refund less than 25 cents need be made; and provided further, that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each company shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date, if the contract has been in effect for a period of at least three months. The company shall not be required to refund any portion of the unearned discount or interest which results in a minimum discount or interest retained on the contract of less than \$15. This subsection shall not apply to open-end loans.

[(g)] (i) Deferred payments, interest, etc. Any payment on account of the principal amount of a contract, or a portion thereof, which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and,

upon the amount [of the principal payment] so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of the extension or deferment, may be charged and may be collected either in advance at the commencement of the period of extension or deferment[;] or otherwise as agreed; provided that the term and conditions of the extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, the extension or deferment, shall be set forth in writing and signed [in duplicate] by the borrower [and the company, one copy of the same to be kept on file with the contract and the other] with one copy to be given to the borrower.

[(h)] (j) Other charges. In addition to the interest[, discount, or] and any other charges permitted by this section, [an industrial loan company] a licensee shall also have [power] the right to [collect] charge, contract for, and receive in advance or otherwise from the borrower any of the following charges[:] for any loan made under subsection (b) or (c):

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, deed, or other conveyance, any mortgage[, chattel mortgage, or other conveyance,] or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, or other encumbrance, or of any of such conveyances, security agreements, or instruments[, of or on any real or personal property which constitutes all or a portion of the security on a contract.] or financing statements or other notices.
- (2) Abstractors' fees, appraisal fees, survey fees, notary fees, and title report or title insurance fees, where actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Licensee appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the licensee, designated and approved by the board of directors or by a competent, qualified, independent appraiser. The bank examiner may require that an appraisal by an independent appraiser be obtained at the expense of the licensee whenever the bank examiner deems it necessary.
- (4) Mortgage reserve funds to be held by the licensee for payment of taxes, insurance, lease rent, condominium assessments, and similar expenses.
- [(3)] (5) Premiums actually paid for insuring real and personal property [pledged] used as security on a contract, [and] premiums for insurance on the life or disability or both of the borrower[;], and premiums for private mortgage insurance; provided the insurance is

obtained from insurance companies authorized to do and doing business in the State under the laws thereof; and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.

- [(4)] (6) Attorney's fees[,] and expenses, including costs and expenses of repossession, foreclosure, or other legal remedies, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- [(5)] (7) A reasonable charge [not exceeding \$10] upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, security interest, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract[.]; provided that such charge shall not exceed \$25 for any consumer loan.
- [(6)] Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and, when the loan agreement is made, shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j). Loan fees or "points" shall be fully earned on the date the loan is made and shall not be subject to refund upon prepayment of the loan.
- (7)] (8) Any reasonable attorneys' fees incurred for the preparation of any contract, [or] including any promissory note or any other obligation evidencing an indebtedness, [or] any bill of sale, assignment, deed, or other conveyance, any mortgage[, chattel mortgage, or other conveyance,] or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any such conveyances, security agreements or instruments, financing statements, or other notices, or of any judgment, mortgage, lien, or other encumbrance[, or any of such conveyances or instruments of or] on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- [(8)] (9) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more; provided that [such

- charges shall not exceed \$15 per applicant and] such charges are paid to third parties and no portion of such charges inures to the benefit of the [company.] licensee.
- (9) Appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the company, designated and approved by the board of directors, or by a competent, qualified, independent appraiser. The bank examiner may require that an appraisal by an independent appraiser be obtained at the expense of the company whenever it deems necessary.]
 - (10) A prepayment charge [equal to a sum measured by six months of interest at the loan rate,] as provided in the contract, on any amount voluntarily, and not pursuant to any acceleration provision, prepaid; provided that on any consumer loan, such prepayment charge shall be computed on the amount prepaid in any twelve-month period measured from the date of the contract or from any anniversary thereof in excess of twenty per cent of the original principal amount of any loan contracted for five years or more[; provided this prepayment charge], and may be charged only on amounts prepaid within five years of the date of the contract and may be charged only on loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection [(j).] (c) or (d); and provided further that on a consumer loan the prepayment charge on any such amount shall not exceed a sum equal to six months of interest at the loan rate on the amount prepaid. The prepayment charge shall not apply to adjustable or variable rate loans [and] or open-end loans.
 - (11) Commitment fees as provided in the contract for the licensee's written commitment to a borrower to make, extend, or assume a loan or loans. The written commitment may make such fees nonrefundable.
 - (12) Application fees charged to all applicants for a loan, whether or not the loan is approved.
 - (13) Charges imposed by a licensee for payment of items that overdraw an open-end loan account.
 - (14) Charges for participation in an open-end credit plan, whether assessed on an annual, periodic, or other basis.

This subsection shall not limit the authority that is available under subsection (d) to charge, contract for, and receive charges other than interest whether or not such other charges are finance charges.

[(i) Minimum discount or interest on conditional sale. When the discount or interest on a conditional sale contract of \$100 or more is less than \$15, a charge for discount or interest of \$15 shall be allowed.

- (j) As an alternative to the interest authorized by subsection (b):
- (1) An industrial loan company may contract for and receive interest at a rate not exceeding eighteen per cent per year on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. Loans providing for repayment on demand may be contracted for under this subsection and subject to a maturity date not later than six years from the date of the note. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year, the original contract rate of interest, or, in the case of any extension or deferral, the rate of interest permitted by this subsection on the amount extended or deferred, whichever is greatest.
- (2) For loans made or committed to after May 31, 1980, and prior to July 1, 1985, or made before May 31, 1980, and extended or deferred at maturity between May 31, 1980, and July 1, 1985, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to prior to May 31, 1980, except loans made before May 31, 1980, and extended or deferred as provided in this paragraph.
- (3) In addition to collecting interest at the rate established in paragraph (1) or (2) of this subsection, an industrial loan company may collect late charges on delinquent installments. Late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract or \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract.]

(k) Acceleration of installments. [An industrial loan company] A licensee shall have the rights, in the event of default under a contract [or open-end loan agreement], or otherwise as provided in the contract, to declare the entire

unpaid balance under the contract [or open-end loan agreement] due and payable, subject to the interest refund provisions of this section, if applicable, and to exercise any other rights in addition to such acceleration as provided in the contract [or open-end loan agreement], including without limitation the right to stop payment of advances to or on behalf of a borrower in default under the contract [or open-end loan agreement], provided such other rights are not in conflict with the other provisions of this chapter.

(l) Open-end loan. [An industrial loan company] A licensee shall also have power to make open-end loans subject to the following requirements:

- (1) A licensee may not contract for and receive interest on an open-end loan in excess of the higher of that set forth in [paragraph (j)(2) for loans made or committed to after May 31, 1980, and prior to July 1, 1985.] subsection (c) or (d).
- (2) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include [the] charges [(other than interest)] authorized by subsection (h).] and late charges.
- (3) Interest authorized by this subsection shall be deemed not to exceed the maximum interest permitted by this section if such interest is computed for each billing cycle at an annual rate not to exceed that permitted in paragraph [(j)(2) for loans made or committed to after May 31, 1980, and prior to July 1, 1985,] (1) of this subsection by any of the following methods:
 - (A) By converting [the] such annual rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by dividing the authorized annual rate by 365); or
 - (B) By multiplying [the] such annual rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle and then dividing the product so obtained by 365 and then multiplying the quotient by the number of days in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle); or
 - (C) By converting [the] such annual rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the

number of days in the billing cycle (in which case the daily rate is determined by dividing the authorized annual rate by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or

- (D) By converting [the] such annual rate to a daily rate by the method set forth in subparagraph (A) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (4) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
- (5) A licensee may increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans, provided that with respect to open-end loans which are subject to the [Federal] Truth in Lending Act [and the regulations of the Federal Reserve Board promulgated thereunder (i)] (A) that the licensee shall mail or deliver written notice of the change to the borrower at least [thirty] fifteen days prior to the effective date of the increase, unless the increase has been agreed to by the borrower, or the rate is increased as a result of the borrower's delinquency or default, and [(ii)] (B) that the borrower may choose to terminate the open-end loan account, and the licensee will allow the borrower to repay, under the existing open-end loan account terms, the unpaid balance incurred prior to the effective date of the increase, unless the borrower incurs additional debt on or after that date or otherwise agrees to the increase.
- (6) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity, and other conditions as determined by the licensee and set forth in the [open-end loan agreement.] contract.
- (7) A licensee may charge, contract for, and receive the [fees, costs, and expenses] interest, fees, and charges permitted under [subsection (h).] subsections (c), (e), and (j) or subsections (d) and (e).
- (8) If credit life or disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly

premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delinquent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.

- (9) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account means the cancellation, rescission, or other cessation of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all of the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default."

SECTION 7. Section 408-16, Hawaii Revised Statutes, is amended to read as follows:

"§408-16 Other [interest] provisions inapplicable; effect of excessive interest. Sections 478-4 and 478-6 shall not apply to loans made by industrial loan companies[.] under the authority of this chapter.

If a greater rate of interest than that permitted by this chapter is contracted for in any contract within the purview of this chapter, the contract shall not, by reason thereof, be void. But if, in any action on the contract, proof is made that a greater rate of interest than that permitted by this chapter has been directly or indirectly contracted for, the plaintiff shall only recover upon the contract the amount actually received by the borrower on the contract in cash, credit, or the equivalent thereof, or any combination of cash, credit, or the equivalent thereof, or any combination of cash, credit, or the equivalent, plus the charges (if any) which were [actually incurred by the company and] properly

charged to the borrower [under items (1) to (3), of section 408-15(h),] and which have not been deducted from the principal amount of the contract or otherwise paid by the borrower; and, if interest has been paid, judgment shall be for the aforesaid recoverable amount less the amount of interest so paid[.] up to one year after the date of the contract; and the defendant shall recover his costs. The provisions of chapter 476 shall not apply to any loan made in compliance with this chapter."

SECTION 8. Section 408-17, Hawaii Revised Statutes, is amended to read as follows:

"§408-17 [Making and payment of loans; written receipts and statements; chart of rates, etc. Every licensee shall:

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require; provided that any payment made by check or draft as defined in section 490:3-104, shall not require a receipt unless requested by the borrower;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);
- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name

and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and

- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances and other debits, and payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest a year charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, before its acceptance by the licensee, have clearly set forth a statement of the effective rate of interest a year charged by the licensee for the loan evidenced by the note.

The provisions of chapter 476 shall not apply to any loan made to a borrower, in compliance with this chapter.] **Contract copy to borrowers. Every licensee shall deliver or mail a copy of the contract to the borrower at the time the contract is made or as soon thereafter as is reasonably practicable. For purposes of this section, the term "borrower" means the person or persons to whom the licensee is required by the Truth in Lending Act to deliver a disclosure statement, or if the Truth in Lending Act disclosure requirements are inapplicable, then any one person who is personally obligated by the contract to pay the principal amount."**

SECTION 9. Section 408-20, Hawaii Revised Statutes, is amended to read as follows:

"§408-20 Other restrictions on business. [No industrial loan company shall engage in the banking or trust company or building and loan association business. A licensee shall not charge, contract for, collect, or receive interest, discounts, fees, fines, commissions, charges, or other considerations in excess of

the interest or discount, charges, recording and satisfaction fees, or premiums for insurance authorized by this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. A licensee shall not sell any loan to another person or company doing business in this State whenever such loan provides by contract for a rate of interest greater than would be permissible under section 478-3 unless such person or company has the right to charge, contract for, receive, collect in advance or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under this chapter and such loans are sold without recourse. This section shall not be construed to prohibit any licensee from selling any loan, secured by an interest in real property, to any person or company licensed, authorized or permitted by any other state or the federal government to make, purchase, or service such loans, nor to prohibit such person or company from collecting interest and enforcing the terms of the loan to the same extent permitted the licensee but for the sale of the loan.] Any loan made pursuant to the authority of this chapter including section 408-15 may be assigned, sold, or pledged in whole or in part to any person, and such person shall have the right to charge, contract for, and receive interest on, and enforce the terms of, the loan to the same extent permitted but for the assignment, sale, or pledge; provided that no such loan shall be assigned, sold, or pledged to another person doing business in this State unless such person has the right to charge, contract for, or receive interest at the same rate as that on the loan, and in the case of an assignment or sale, such loan is assigned or sold without recourse."

SECTION 10. Section 478-4, Hawaii Revised Statutes, is amended to read as follows:

"§478-4 Usury not recoverable. If a greater rate of interest than one per cent a month is contracted for, the contract shall not by reason thereof, be void. But if in any action on the contract proof is made that a greater rate of interest than one per cent a month has been directly or indirectly contracted for, the plaintiff shall only recover the principal and the defendant shall recover costs; provided[,] that any bank may charge, contract for, receive, collect in advance, or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408, [if in relation to the contract such bank shall be in compliance with] subject to the penalties imposed by that chapter if a greater rate of interest than that permitted by chapter 408 is contracted for or there is any other violation of sections 408-15 and 408-17 applicable to licensees under chapter 408. If interest has been paid, judgment shall be for the principal less the amount of interest paid. This section shall not be held to apply to

contracts for money lent upon bottomry bonds or upon other maritime risks nor, except for the foregoing proviso, to loans made under chapter 408."

SECTION 11. Section 407-92.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§407-92.5]] **Charges.** Any savings and loan association may charge, contract for, receive, collect in advance, or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under chapter 408, [if in relation to the contract such savings and loan association shall be in compliance with] subject to the penalties imposed by that chapter if a greater rate of interest than that permitted by chapter 408 is contracted for or there is any other violation of sections 408-15 and 408-17 applicable to [licenses] licensees under chapter 408."

SECTION 12. All acts passed by the Twelfth Legislature of the State of Hawaii during the Regular Session of 1984, before or after the effective date of this Act shall be amended to conform with this Act.

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 254

S.B. NO. 878

A Bill for an Act Relating to Hawaii Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-9, Hawaii Revised Statutes, is amended to read as follows:

"§89-9 **Scope of negotiations.** (a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer's budget-making process, and shall negotiate in good faith with respect to wages, hours, the amounts of contributions by the State and respective counties to the Hawaii public employees health fund to the extent allowed in subsection (e), and other terms and conditions of employment which are subject to negotiations under this chapter and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal or make a concession.

(b) The employer or the exclusive representative desiring to initiate negotiations shall notify the other in writing, setting forth the time and place of the meeting desired and generally the nature of the business to be discussed, and shall mail the notice by certified mail to the last known address of the other party sufficiently in advance of the meeting.

(c) Except as otherwise provided herein, all matters affecting employee relations, including those that are, or may be, the subject of a regulation promulgated by the employer or any personnel director, are subject to consultation with the exclusive representatives of the employees concerned. The employer shall make every reasonable effort to consult with the exclusive representatives prior to effecting changes in any major policy affecting employee relations.

(d) Excluded from the subjects of negotiations are matters of classification and reclassification, benefits of but not contributions to the Hawaii public employees health fund, retirement benefits, and the salary ranges and the number of incremental and longevity steps now provided by law; provided that the number of steps in accordance with section 77-13.5, the amount of wages to be paid in each range and step, and the length of service necessary for the incremental and longevity steps shall be negotiable. Effective July 1, 1976, an employee shall not be entitled to his normal annual increment or longevity increase, as the case may be, in any fiscal year that a negotiated pay increase is effected, whether by statute or agreement, and no part of such a fiscal year shall be counted as service creditable for any future increment or longevity pay increase. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, which would be inconsistent with section 77-13.5, relating to the conversion to appropriate salary ranges, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

(e) Negotiations relating to contributions to the Hawaii public employees health fund shall be for the purpose of agreeing upon the amounts which the State and counties shall contribute under section 87-4, toward the payment of the costs for hospital, medical, surgical, and dental benefits of a health benefits plan, and group life insurance benefits, and the parties shall not be bound by the

amounts contributed under any prior agreements; provided that the provisions of section 89-11 for the resolution of disputes by way of fact-finding or arbitration shall not be available to resolve impasses or disputes relating to the amounts the State and counties shall contribute to the Hawaii public employees health fund."

SECTION 2. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) [Notwithstanding any other law to the contrary, if] If a dispute between a public employer and the exclusive representative of optional appropriate bargaining unit (11), firefighters, exists over the terms of an initial or renewed agreement, the board shall assist in the voluntary resolution of the impasse by appointing a mediator within three days after the date of impasse. If the dispute continues to exist fifteen working days after the date of impasse, the dispute shall be submitted to arbitration proceedings as provided herein.

The board shall immediately determine whether the parties to the dispute have mutually agreed upon an arbitration procedure and whether the parties have agreed upon a person or persons whom the parties desire to be appointed as the arbitrator or as a panel of arbitrators, as the case may be.

If the board determines that an arbitration procedure mutually agreed upon by the parties will result in a final and binding decision, and that an arbitrator or arbitration panel has been mutually agreed upon, it shall appoint such arbitrator or arbitration panel and permit the parties to proceed with the arbitration procedure mutually agreed upon.

If, after eighteen working days from the date of impasse, the parties have not mutually agreed upon an arbitration procedure and an arbitrator or arbitration panel, the board shall immediately notify the employer and the exclusive representative that the issues in dispute shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.

Within twenty-one working days from the date of impasse, two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The impartial third member of the arbitration panel shall be selected by the two previously selected panel members and shall chair the arbitration panel.

In the event that the two previously selected arbitration panel members fail to select an impartial third arbitrator within twenty-four working days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the impartial arbitrator shall be selected. Within five calendar days after receipt of such list, the parties shall alternately strike names

therefrom until a single name is left, who shall be immediately appointed by the board as the impartial arbitrator and chairman of the arbitration panel.

Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a [complete] final offer which [shall constitute a complete agreement and] shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions [it] other than those relating to contributions by the State and respective counties to the Hawaii public employees health fund which each party is proposing for inclusion in the final agreement.

Within twenty calendar days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final offers. Nothing in this section shall be construed to prohibit the parties from reaching a voluntary settlement on the unresolved issues, with or without the assistance of a mediator, at any time prior to the conclusion of the hearing conducted by the arbitration panel.

Within thirty calendar days after the conclusion of the hearing, a majority of the arbitration panel shall select the most reasonable of the [complete] final offers submitted by the parties and shall issue a final and binding decision incorporating that offer without modification.

In reaching a decision, the arbitration panel shall give weight to the factors listed below and shall include in a written opinion an explanation of how the factors were taken into account in reaching the decision:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public.
- (4) The financial ability of the employer to meet these costs.
- (5) The present and future general economic condition of the counties and the State.
- (6) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other persons performing similar services, and of other State and county employees generally.
- (7) The average consumer prices for goods [for] or services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

- (9) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, [factfinding,] fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

The decision of the arbitration panel shall be final and binding upon the parties[.] on all provisions submitted to the arbitration panel. If the parties have reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the tenth working day after the arbitration panel issues its decision, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions agreed to by the parties. If the parties have not reached agreement with respect to the amounts of contributions by the State and counties to the Hawaii public employees health fund by the close of business on the tenth working day after the arbitration panel issues its decision, the parties shall have five days to submit their respective recommendations for such contributions to the legislature, if it is in session, and if the legislature is not in session, the parties shall submit their respective recommendations for such contributions to the legislature during the next session of the legislature. In such event, the final and binding agreement of the parties on all provisions shall consist of the panel's decision and the amounts of contributions established by the legislature by enactment, after the legislature has considered the recommendations for such contributions by the parties. It is strictly understood that no member of a bargaining unit subject to this subsection shall be allowed to participate in a strike on the issue of the amounts of contributions by the State and counties to the Hawaii public employees health fund. The parties shall [enter into an agreement or] take whatever action is necessary to carry out and effectuate the [decision.] final and binding agreement. The parties may, at any time and by mutual agreement, amend or modify the panel's decision.

Agreements reached pursuant to the decision of an arbitration panel and the amounts of contributions by the State and counties to the Hawaii public employees health fund, as provided herein, shall not be subject to ratification by the employees concerned. All items requiring any moneys for implementation shall be subject to appropriations by the appropriate legislative bodies and the employer shall submit all such items within ten days after the date on which the agreement is entered into as provided herein, to the appropriate legislative bodies.

The costs for mediation shall be borne by the board. All other costs incurred by either party in complying with these provisions, including the costs

of its selected member on the arbitration panel, shall be borne by the party incurring them, except that all costs and expenses of the impartial arbitrator shall be borne equally by the parties.”

SECTION 3. Section 89-2, Hawaii Revised Statutes, is amended as follows:

1. The definition of “collective bargaining” is amended to read:

“(5) “Collective bargaining” means the performance of the mutual obligations of the public employer and the exclusive representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to wages, hours, amounts of contributions by the State and counties to the Hawaii public employees health fund, and other terms and conditions of employment, except that by any such obligation neither party shall be compelled to agree to a proposal, or be required to make a concession.”

2. The definition of “cost items” is amended to read:

“(6) “Cost items” includes wages, hours, amounts of contributions by the State and counties to the Hawaii public employees health fund, and other terms and conditions of employment, the implementation of which requires an appropriation by a legislative body.”

3. The definition of “employee organization” is amended to read:

“(8) “Employee organization” means any organization of any kind in which public employees participate and which exists for the primary purpose of dealing with public employers concerning grievances, labor disputes, wages, hours, amounts of contributions by the State and counties to the Hawaii public employees health fund, and other terms and conditions of employment of public employees.”

4. The definition of “mediation” is amended to read:

“[(16)] “Mediation” means assistance by an impartial third party to reconcile an impasse between the public employer and the exclusive representative regarding wages, hours, amounts of contributions by the State and counties to the Hawaii public employees health fund, and other terms and conditions of employment through interpretation, suggestion, and advice to resolve the impasse.”

SECTION 4. Section 87-4, Hawaii Revised Statutes, is amended as follows:

1. Subsection (a) is amended to read:

“(a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the

fund a monthly contribution [of \$15.98 for each of their respective employee-beneficiaries and \$49.14 for each respective employee-beneficiary with a dependent-beneficiary,] equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreement, whichever is appropriate, for each of their respective employee-beneficiaries and employee-beneficiaries with dependent beneficiaries, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them. The monthly contribution shall be based upon the HMSA regular plan rates which are approved by the board.”

2. Subsection (b) is amended to read:

“(b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution [of \$5.28] equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreement, whichever is appropriate, for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.”

3. Subsection (c) is amended to read:

“(c) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution [of \$2.25] equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreement, whichever is applicable, for each of their respective employees, to be used towards the payment of group life insurance benefits for each employee.”

SECTION 5. Section 89C-1, Hawaii Revised Statutes, is amended to read as follows:

“§89C-1 **Purpose.** The legislature finds that existing statutes do not permit the chief executives of the State and counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the supreme court sufficient flexibility to make appropriate and timely adjustments in the compensation, hours, terms, and conditions of employment, amounts of contributions by the State and respective counties to the Hawaii public employees health fund, and other

benefits for public officers and employees who are excluded from collective bargaining coverage under chapter 89. To this end, the legislature grants to the respective chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, the authority to make such adjustments for officers and employees excluded from collective bargaining in conformance with this chapter.

Nothing in this chapter shall be construed to interfere with or diminish any authority already provided by statutes to the chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice."

SECTION 6. Section 89C-2, Hawaii Revised Statutes, is amended to read as follows:

"§89C-2 Adjustments authorized; limitations, restrictions. Any provision of law to the contrary notwithstanding, the compensation, hours, terms, and conditions of employment, amounts of contributions by the State and respective counties to the Hawaii public employees health fund, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice, as applicable. The chief executives, the board of education, the board of regents, the auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice, or their designated representatives, shall determine the adjustments to be made and which excluded officers or employees are to be granted adjustments under this chapter, in accordance with the following guidelines and limitations:

- (1) For excluded officers and employees under the same compensation plans as officers and employees within collective bargaining units, such adjustments shall be not less than those provided under collective bargaining agreements for officers and employees hired on a comparable basis.
- (2) No adjustment in compensation, hours, terms, and conditions of employment, amounts of contributions by the State and respective counties to the Hawaii public employees health fund, or other benefits shall be established which is in conflict with the system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.

[[](3)[]] The compensation of officers or employees whose salaries presently are limited or fixed by legislative enactment shall not be adjusted under this chapter, but shall continue to be adjusted by the

appointing authority within limits established by law or by legislative enactment.

[[](4)[]] The compensation of officers or employees, who are not covered under the same compensation plans as officers and employees within collective bargaining units and whose salaries presently are authorized to be fixed by the appointing authority, need not be adjusted under this chapter. The appointing authority may continue to make specific adjustments in the salaries of individual officers or employees from available funds appropriated.

(5) Adjustments to the amounts of contributions by the State and respective counties to the Hawaii public employees health fund on behalf of officers or employees who are not covered by adjustments made under this chapter shall be made by legislative enactment."

SECTION 7. If S.B. No. 1115¹ is passed by the legislature during this Regular Session of 1984, whether before or after the effective date of this Act, section 89-11(d), Hawaii Revised Statutes, as amended by S.B. No. 1115,¹ shall be further amended to reflect the changes effected by section 2 of this Act. In the event that any provision of this Act shall conflict with a provision in another Act passed by the legislature during this Regular Session of 1984, whether before or after the effective date of this Act, the provisions in this Act shall supersede.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval, except that section 4 of this Act shall take effect on July 1, 1985.

(Approved June 4, 1984.)

Note

1. Enacted as Act 219.

ACT 255

H.B NO. 654

A Bill for an Act Relating to Acquisition of Voting Stock by Foreign Investors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 403-38.5, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and read as follows:

"§403- Bank control; filing requirements. (a) No corporation or individual shall acquire control, whether directly or indirectly, of a corporation organized under the laws of the State and subject to chapter 403, unless:

- (1) At least sixty days prior to the proposed acquisition the bank examiner has received a copy of the notice filed with the Federal Deposit Insurance Corporation pursuant to the Change In Bank Control Act of 1978, 12 U.S.C. §1817(j)(6); and
 - (2) The bank examiner has submitted appropriate views and recommendations on the proposed acquisition to the Federal Deposit Insurance Corporation.
- (b) For purposes of this section "control" means:
- (1) The power, directly or indirectly, to direct the management or policies of a bank or to vote twenty-five per cent or more of any class of voting securities of a bank.
 - (2) The acquisition of ten per cent or more of a class of voting securities of a bank holding company if:
 - (A) The institution has issued any class of securities subject to registration under section 12 of the Securities Exchange Act of 1934; or
 - (B) Immediately after the transaction no other person will own a greater proportion of that class of voting securities."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 256

H.B. NO. 2407-84

A Bill for an Act Relating to the Job-Sharing Pilot Project in the Public Library System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 139, Session Laws of Hawaii 1982, is amended by amending sections 2, 3, and 4 to read as follows:

"SECTION 2. There is established a [two-year,] four-year, job-sharing pilot project to be conducted within the public library system by the board of education for fiscal years 1982-1983 [and], 1983-1984[,], 1984-1985, and 1985-

1986; provided that the board of education shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines. Job sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position shall constitute two job-sharing positions. The board of education shall devote no more than fifty full-time, permanent positions to job-sharing, pursuant to this Act. The board shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units, adopt guidelines for the implementation of this Act.

SECTION 3. The following shall constitute general requirements of the pilot project conducted within the public library system, and shall be followed in the implementation of this Act:

- (1) The state librarian shall announce the pilot project to all full-time librarians, library assistants, and library technicians of the public libraries and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The state librarian, in consultation with the recognized employee bargaining units, shall formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the state librarian. Those who qualify shall then be interviewed by a personnel officer of the public library system. Participation shall be for fiscal year 1982-1983 [and/or], 1983-1984[.], 1984-1985, and/or 1985-1986.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the state librarian shall, for the purposes of this Act, convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by either another permanent employee or a person hired under this Act; provided that the positions composed of job-sharing teams of two permanent employees shall not exceed twenty-five.

- (4) Persons hired to fill job-sharing positions shall be recruited through this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job-sharing, for the purposes of this Act, is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week, and with each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

The full-time permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the contrary notwithstanding. Job-sharers shall be covered by chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Nothing in this Act shall be construed to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement.
- (7) No job-sharing position created under this Act and committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the public library system on the part of any person shall be filled through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreement under this Act, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their

participation in the pilot project shall be entitled to resume their positions without loss of any employee rights.

SECTION 4. The office of the legislative auditor shall monitor and evaluate the pilot project, with particular regard to the efficacy of the job-sharing concept, and shall evaluate factors such as turnover rates, absenteeism, productivity, morale, and demographic factors such as ethnic, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor shall also, among other analyses, identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit a status report on its findings to the legislature in the regular session of [1984.] 1986."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

ACT 257

H.B. NO. 2451-84

A Bill for an Act Relating to the Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that there are an increasing number of crimes being committed against tourists in Waikiki and other areas frequented by tourists. Tourism is the State's primary industry and source of income.

The legislature finds that imposing geographic restrictions as a condition of probation or parole, especially when used to keep convicted persons out of Waikiki and other tourist areas where they have previously perpetrated crimes against tourists, will enhance the reputation of Waikiki and other tourist destination areas and will benefit all of the citizens of Hawaii.

The legislature also finds that probation and parole conditions which limit the convicted person's freedom of movement are permissible where they will further such goals as deterrence or rehabilitation, or where they will be protective of the State's interest in the health, safety, and welfare of its citizens.

The legislature believes that a court or the paroling authority may bar a person from certain areas if the penalty is reasonably related to the offense, as a condition of probation or parole. Thus, if a person commits crimes in certain areas or places, a court could bar the person from those areas as a condition of probation or parole, provided that if the person has a legitimate and compelling

reason to go to that area or place, he could apply to the court for specific permission.

The purpose of this bill is to amend the laws relating to conditions of probation and parole, to make it clear that limitations on entering specific geographical areas are legitimate limitations on a probationer or parolee.

SECTION 2. Section 706-624, Hawaii Revised Statutes, is amended to read as follows:

“§706-624 Conditions of suspension of sentence or probation. (1) When the court suspends the imposition of sentence on a person who has been convicted of a crime or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or likely to assist him to do so.

(2) The court, as a condition of its order, may require the defendant:

- (a) To meet his family responsibilities;
- (b) To devote himself to an employment or occupation;
- (c) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
- (d) To pursue a prescribed secular course of study or vocational training;
- (e) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
- (f) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
- (g) To refrain from entering specified geographical areas without the court's permission;
- [(g)] (h) To have in his possession no firearms or other dangerous instruments unless granted written permission by the court;
- [(h)] (i) To make restitution of the fruits of his crimes or to make reparation, in an amount he can afford to pay, for the loss or damage caused thereby;
- [(i)] (j) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
- [(j)] (k) To report as directed to the court or the probation officer and to permit the officer to visit his home;
- [(k)] (l) To post a bond, with or without surety, conditioned on the performance of any of the foregoing obligations;
- [(l)] (m) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom or conscience.

(3) When the court sentences a person who has been convicted of a misdemeanor to be placed on probation, it may require him to serve a term of imprisonment not exceeding six months as an additional condition of its order. When the court sentences a person who has been convicted of a felony to be placed on probation, it may require him to serve a term of imprisonment not exceeding one year as an additional condition of its order. The court may order that the term of imprisonment be served intermittently.

(4) The defendant shall be given a written copy of any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly."

SECTION 3. Section 706-670, Hawaii Revised Statutes, is amended to read as follows:

"§706-670 Parole procedure; release on parole; terms of parole, recommitment, and reparole; final unconditional release.¹ (1) Parole hearing. A person sentenced to an indeterminate term of imprisonment shall receive an initial parole hearing at least one month before the expiration of the minimum term of imprisonment determined by the Hawaii paroling authority pursuant to section 706-669. If parole is not granted at that time, additional hearings shall be held at twelve-month intervals or less until parole is granted or the maximum period of imprisonment expires.

(2) Parole conditions. The authority, as a condition of parole, may impose reasonable conditions on the prisoner as provided under section 706-624(2).

[(2)] (3) Prisoner's plan and participation. Each prisoner shall be given reasonable notice of his parole hearing and shall prepare a parole plan, setting forth the manner of life he intends to lead if released on parole, including specific information as to where and with whom he will reside and what occupation or employment he will follow. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of his plan and in securing information for submission to the authority. In addition, he shall:

- (a) Be permitted to consult with any persons whose assistance he reasonably desires, including his own legal counsel, in preparing for a hearing before the authority;
- (b) Be permitted to be represented and assisted by counsel at the hearing;
- (c) Have counsel appointed to represent and assist him if he so requests and cannot afford to retain counsel; and
- (d) Be informed of his rights under (a), (b), and (c).

[(3)] (4) Authority's decision; initial minimum term of parole. The authority shall render its decision regarding a prisoner's release on parole within a reasonable time after the parole hearing. If the authority denies parole after the

hearing, it shall state its reasons in writing. A verbatim stenographic or mechanical record of the parole hearing shall be made and preserved in transcribed or untranscribed form. The authority may in its discretion order a reconsideration or rehearing of the case at any time. If parole is granted by the authority, the authority shall set the initial minimum length of the parole term.

[(4)] (5) Release upon expiration of maximum term. If the authority fixes no earlier release date, a prisoner's release shall become mandatory at the expiration of his maximum term of imprisonment.

[(5)] (6) Sentence of imprisonment includes separate parole term. A sentence to an indeterminate term of imprisonment under this chapter includes as a separate portion of the sentence a term of parole or of recommitment for violation of the conditions of parole.

[(6)] (7) Revocation hearing. When a parolee has been recommitted, the authority shall hold a hearing within sixty days after his return to determine whether his parole should be revoked. The parolee shall have reasonable notice of the grounds alleged for revocation of his parole. The institutional parole staff shall render reasonable aid to the parolee in preparation for the hearing. In addition, the parolee shall have, with respect to the revocation hearing, those rights set forth in subsection [(2)(a), (2)(b), (2)(c), and (2)(d).] (3)(a), (3)(b), (3)(c), and (3)(d). A record of the hearing shall be made and preserved as provided in subsection [(3).] (4).

[(7)] (8) Length of recommitment and reparole after revocation of parole. If a parolee's parole is revoked, the term of further imprisonment upon such recommitment and of any subsequent reparole or recommitment under the same sentence shall be fixed by the authority but shall not exceed in aggregate length the unserved balance of the maximum term of imprisonment.

[(8)] (9) Final unconditional release. When his maximum parole term has expired or he has been sooner discharged from parole, a prisoner shall be deemed to have served his sentence and shall be released unconditionally.¹

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1984.)

Note

1. So in original. Wrong version seems to be amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 602, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§602- Disposition of judiciary records. Notwithstanding the provisions of section 94-3, the supreme court shall determine the care, custody, and disposition of all judiciary case, fiscal, and administrative records. A record of dispositional activity shall be maintained stating whether a record was retained by the judiciary, transferred to public archives, the University of Hawaii, the Hawaii Historical Society, or other agency, or destroyed. This record shall be kept on forms specified by the supreme court. The original copy of the record shall be filed in the public archives. One copy of the record shall be filed with the court in which the records originated, one copy with the office of the attorney general, and one copy with the comptroller.”

SECTION 2. §94-3, Hawaii Revised Statutes, is amended to read as follows:

“§94-3 Disposal of government records generally. Each public officer, except public officers of the judiciary, having the care and custody of any government records shall submit to the state comptroller a list of records for disposal, which shall include the name of the office, department, or bureau, the subject of the records for disposal and the inclusive dates of the records. The comptroller shall determine the disposition of the records; stating whether such records should be retained by the office, department, or bureau; be transferred to the public archives, the University of Hawaii, the Hawaiian Historical Society, or other agency; or be destroyed. The comptroller shall have full power of disposal of all records submitted for such purpose. The records of all records disposed of, including lists submitted by the public officers, and the action taken by the comptroller, shall be kept on proper forms, specified by the comptroller, one copy of which shall be filed in the office, department or bureau where the records originated, one copy shall be filed in the office of the attorney general, and the original shall be filed in the public archives.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 606-4, Hawaii Revised Statutes, is amended to read as follows:

"§606-4 Custody; disposition of exhibits. The clerks of the supreme, intermediate appellate court, circuit, and district courts shall have the custody of all records, books, papers, moneys, exhibits, and other things pertaining to their respective courts.

The attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, or the party, if not represented by any attorney, shall remove them from the court within six months after the final termination of the action to which the exhibits or things are related. The clerks shall have the authority and power, upon the written approval of a judge of the court given in particular actions or proceedings, to sell, destroy, or otherwise dispose of exhibits and things marked for identification, other than original files belonging to other actions, which have come into their possession or custody under this section, when such exhibits or things have not been already [returned to] removed by their owners or by the attorneys representing the owners and when more than [one year has] six months have elapsed since the final termination of the action to which the exhibits or things are related]; provided that the clerk shall first give notice in writing of the things that are proposed to be disposed of, stating that the same are to be disposed of if not claimed and removed from the court by a day certain, such notice to be addressed to the party or the attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, at his last known address; and provided further that the clerk shall file an affidavit as to such notice and a list of the exhibits or things to be destroyed or otherwise disposed of under this section and the disposition thereof, with the action or proceeding to which the same belong].

All moneys received from sales under this section shall be forthwith deposited with the state director of finance as government realizations."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 260

H.B. NO. 1120

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide for the funding of loan services and delinquent collection activities through revenues from the Hawaiian home interest fund.

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

“§213. Funds and accounts. (a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

- (1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:
 - (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
 - (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements[,] on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called “additional receipts,” shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that [until June 30, 1979,] the aggregate amount so transferred shall not exceed

the maximum amount of \$5,000,000[, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979].

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances, shall be deposited [to] into this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian home interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited [to] into this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited [to] into this fund. The moneys in this fund shall be used to make loans in the amount provided in section 215 for the development and operation

of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:

- (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
- (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
- (C) The payment of normal and reasonable living expenses of a full-time farmer;
- (D) The planning, layout, and installation of soil and water conservation practices; or
- (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophies, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian home interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
 - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of

Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;

- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
- (C) For operation and maintenance of such improvements constructed from such funds or other funds;
- (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects.

The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the [aggregated] aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000.

(b) There are established in the treasury of the State eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian home interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund, and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for offsite improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account, or the operating fund.

- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act and transfers from the Hawaiian home interest fund shall be deposited into this account. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
 - (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
 - (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
 - (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.
- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- (4) Hawaiian home interest fund. All interest moneys from loans or investments received by the department from any fund except as provided for in each respective fund, shall be deposited [in] into this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund, the Hawaiian home administration account, and any loan fund in accordance with rules adopted by the department. Moneys transferred to the Hawaiian home administra-

tion account shall be used to fund salaries and other administrative expenses related to loan services and delinquent collection activities.

- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund; any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.
- (8) Native Hawaiian rehabilitation fund.
 - (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
 - (B) Any payment of principal, interest, or other earnings arising out of the loan or investment money from this fund shall be credited to and deposited into this fund.
 - (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 261

H.B. NO. 1637-84

A Bill for an Act Relating to Abandoned Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 290-1, Hawaii Revised Statutes, is amended to read as follows:

“§290-1 Disposition by counties of certain abandoned vehicles. The counties [of Hawaii, Kauai, and Maui and the city and county of Honolulu] may cause to be taken into custody, and [to] dispose of [the same], vehicles which have been [left unattended for a continuous period of more than twenty-four hours and which are unlawfully on any public highway or other public property, or which have been left on private property without authorization of the owner or occupant of the property.] abandoned. A vehicle is “abandoned”, for the purposes of this section, if it is defined to be abandoned by an ordinance of the county in which the vehicle is located; in the absence of such an ordinance, a vehicle is “abandoned” if it is left unattended for a continuous period of more than twenty-four hours and it is unlawfully parked on any public highway or other public property. The mayors of the several counties may designate an agency within their counties to carry out the functions and requirements of this section. The term “agency” means any office, department, or other governmental unit of the county.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 262

H.B. NO. 1757-84

A Bill for an Act Relating to Marine Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 201-13, Hawaii Revised Statutes, is amended to read as follows:

"[]§201-13[] Powers and duties of the department of planning and economic development in marine affairs. The department of planning and economic development shall:

- (1) [Develop] Assist state agencies in developing and analyzing plans, including objectives, criteria to measure [accomplishments] the accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the total and optimum development of Hawaii's marine resources[, including plans, objectives and criteria for the expenditure of state matching funds for federally funded projects] based on the needs and goals of the State;
- (2) [Conduct systematic analysis of existing and proposed marine programs, evaluate the analysis conducted by the agencies of state government and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of the marine environment;] Develop and analyze plans for future economic development projects, including objectives and criteria to measure the accomplishment of objectives; develop and implement programs through which the objectives are to be attained; and determine financial requirements for the total and optimum development of Hawaii's marine resources based on the needs and goals of the State;
- (3) Assist those departments having interests in marine affairs, coordinate those activities which involve the responsibilities of multiple state agencies, and [insure] encourage the timely and effective implementation of all authorized marine projects and programs;
- (4) [Establish a continuing program for informing] Coordinate the dissemination of information to the federal government, other state governments, governments of nations with interests in the Pacific basin, private and public organizations involved in marine science and technology, and commercial enterprises of Hawaii's leadership potential as the center for marine affairs;
- (5) Coordinate the State's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific basin;
- (6) Develop programs to continuously encourage private and public marine exploration and research projects which will result in the development of improved technological capabilities in Hawaii; and
- (7) Formulate and assist state agencies in formulating specific program and project proposals to solicit increased investment by the federal

government and other sources to develop Hawaii's marine resources [and coordinate the preparation and submission of program and project proposals of state agencies]."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 263

H.B. NO. 1779-84

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-9, Hawaii Revised Statutes, is amended to read:

"§467-9 License; applications and fees. (a) Every applicant for issuance of a real estate license under this chapter shall file an application with the real estate commission in such form and setting forth such information as may be prescribed or required by the commission, and shall furnish such additional information bearing upon the issuance of the license as it requires. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a copartnership or corporation any member or officer thereof may sign the application and verify the same on behalf of the applicant. The commission may prescribe deadlines for the submission of applications.

(b) No broker's license shall be issued under any trade name, corporate name, or copartnership name which contains the name, initials, or nickname of an unlicensed person or licensed real estate salesman, unless otherwise approved by the commission."

SECTION 2. Section 467-14, Hawaii Revised Statutes, is amended to read:

"§467-14 Revocation and suspension of licenses. The real estate commission may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;

- (4) Without first having obtained the written consent so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for his services from both of such parties;
- (5) When licensee, being a real estate salesman, accepts any commission or other compensation for the performance of any of the acts hereinabove enumerated in the definition of real estate salesman from any person, copartnership, or corporation other than his employer or the broker with whom he associates or, being a real estate broker or salesman, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesman, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than his employer or the broker with whom he is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (11) When the licensee, being a real estate salesman, fails to file with the commission a written statement setting forth the name of the real estate broker by whom he is employed or with whom he is associated;
- (12) Violating this chapter, chapter 484, 514A, 514E, or 515, or the rules [and regulations] adopted pursuant thereto;
- (13) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that a licensed broker may pay a commission to a licensed broker of another state if such broker does not conduct in this State any of the negotiations for which a commission is paid;

(14) Commingling the money or other property of his principal with his own;

(15) Adjudicated insane or incompetent.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years."

SECTION 3. Section 467-26, Hawaii Revised Statutes, is amended to read:

"§467-26 **Penalty.** Any person violating this chapter shall be fined not more than [\$500.] \$1,000 for each violation."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 264

H.B. NO. 1816-84

A Bill for an Act Relating to Dental Hygienists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 **[[NEW]] Repeal dates.** (a) **[[DELETED]]**

[[b)] The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- [[6)] Chapter 447 (Dental Hygienists)

(c) **[[b)]** The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 448H (Elevator Mechanics Licensing Board)
- [d)] (c) The following chapters are hereby repealed effective December 31, 1986:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
 - (4) Chapter 460J (Pest Control Board)
 - (5) Chapter 438 (Board of Barbers)
 - (6) Chapter 439 (Board of Cosmetology)
- [e)] (d) The following chapters are hereby repealed effective December 31, 1987:
 - (1) Chapter 458 (Board of Dispensing Opticians)
 - (2) Chapter 459 (Board of Examiners in Optometry)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 471 (Board of Veterinary Examiners)
 - (5) Chapter 441 (Cemeteries and Mortuaries)
 - (6) Chapter 463 (Board of Detectives and Guards)
- [f)] (e) The following chapters are hereby repealed effective December 31, 1988:
 - (1) Chapter 465 (Board of Certification for Practicing Psychologists)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 359L (Factory Built Housing Advisory Board)
 - (4) Chapter 468B (Solar Energy Device Dealers)
 - (5) Chapter 468K (Travel Agencies)
 - (6) Chapter 373 (Commercial Employment Agencies)
- [g)] (f) The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
- (g) The following chapter is hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 265

H.B. No. 1842-84

A Bill for an Act Relating to Separate Maintenance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-72, Hawaii Revised Statutes, is amended to read as follows:

“§580-72 [Wife] Married persons may bring action in own name. Whenever any married [woman] person has the right to sue for separate maintenance, [she] that person may bring the action [therefor] in [her] the person's own name.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 266

H.B. NO. 1878-84

A Bill for an Act Relating to Land Sales.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 484-15, Hawaii Revised Statutes, is amended to read as follows:

“§484-15 Penalties. Any person who wilfully violates this chapter or a rule adopted under it or any person who wilfully, in an application for registration or exemption makes any untrue statement of a material fact or omits to state a material fact is guilty of a felony and may be fined not less than [\$1,000] \$5,000 or double the amount of gain from the transaction, whichever is the larger but not more than [\$50,000;] \$250,000; or may be imprisoned for not more than two years, or both.”

SECTION 2. Section 484-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit, or interest in subdivided lands together with interest at the rate [of six per cent a year] provided for in section 478-2, from the date of payment, property taxes paid, costs, and reasonable attorneys fees less the amount of any income received from the subdivided lands upon tender of appropriate instruments of

reconveyance. If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate [of six per cent a year] provided for in section 478-2, on that amount from the date of disposition."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 267

H.B. NO. 1933-84

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 323D, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"[]CHAPTER 323D[]]
HEALTH PLANNING AND RESOURCES
DEVELOPMENT
AND HEALTH CARE COST CONTROL"**

SECTION 2. Section 323D-2, Hawaii Revised Statutes, is amended to read as follows:

"§323D-2 Definitions. As used in this chapter:

[(1)] "Annual implementation plan" means the annual program plan pursuant to section 323D-16.

"Applicant" means any person who applies for a certificate of need under part V.

"Capital expenditure" means any purchase or transfer of money or anything of value or enforceable promise or agreement to purchase or transfer money or anything of value incurred by or in behalf of any person for construction, expansion, alteration, conversion, development, initiation, or modification as defined in this section. The term includes the:

- (1) Cost of studies, surveys, designs, plans, working drawings, specifications, and other preliminaries necessary for construction, expansion, alteration, conversion, development, initiation, or modification;

- (2) Fair market values of facilities and equipment obtained by donation or lease or comparable arrangements as though the items had been acquired by purchase; and
- (3) Fair market values of facilities and equipment transferred for less than fair market value, if a transfer of the facilities or equipment at fair market value would be subject to review under section 323D-43.

"Certificate of need" means an authorization, when required pursuant to section 323D-43, to construct, expand, alter, or convert a health care facility or to initiate, expand, develop, or modify a health care service.

"Construct", "expand", "alter", "convert", "develop", "initiate", or "modify" includes the erection, building, reconstruction, modernization, improvement, purchase, acquisition, or establishment of a health care facility or health care service; the purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision thereof; the arrangement or commitment for financing the offering or development of a health care facility or health care service; any obligation for a capital expenditure by a health care facility; and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary for any such undertaking, which will:

- (1) Result in a total capital expenditure in excess of the expenditure minimum,
- (2) Substantially modify, decrease, or increase the scope or type of health service rendered, or
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility.

"Expenditure minimum" means \$600,000 for capital expenditures, \$400,000 for replacement of major medical equipment, and \$250,000 for new major medical equipment.

"Health" includes physical and mental health.

"Health care facility" and "health care service" include any program, institution, place, building, or agency, or portion thereof, private or public, other than federal facilities or services, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. The terms include, but are not limited to, health care facilities and health care services commonly referred to as hospitals, extended care and rehabilitation centers, nursing homes, skilled nursing facilities, intermediate care facilities, hospices for the terminally ill that require licensure or certification by the department of health, kidney disease treatment centers including freestanding hemodialysis units, outpatient clinics, organized ambulatory health care facilities, emergency care facilities and

centers, home health agencies, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

"Health care provider" means a health care facility, physician, dentist licensed under chapter 448, chiropractor licensed under chapter 442, optometrist registered under chapter 459, podiatrist licensed under chapter 463E, psychologist certified under chapter 465, occupational therapist subject to chapter 457G, and physical therapist licensed under chapter 321.

"Organized ambulatory health care facility" means a facility not part of a hospital, which is organized and operated to provide health services to outpatients. This term includes the following facilities: clinical health centers; diagnostic centers; treatment centers; family planning clinics; family health centers; neighborhood health centers; ambulatory surgical facilities including centers for dental surgery; cosmetic surgery centers; dental clinics; optometric clinics; community mental health and mental retardation centers; outpatient mental health facilities; prenatal or abortion clinics; drug abuse or alcoholism treatment centers; facilities for the provision of outpatient physical therapy services including speech pathology; rehabilitation facilities; any provision of medical or health services by a provider of medical or health services organized as a not-for-profit or business corporation other than a professional corporation; and any provider of medical or health services which describes itself to the public as a "center", "clinic", or by any name other than the name of one or more of the practitioners providing these services. The state agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities.

"Person" means an individual or a natural person, a trust or estate, a society, a firm, an assembly, a partnership, a corporation, a professional corporation, an association, the State, any political subdivision of the State, a county, a state agency or any instrumentality of the State, a county agency or any instrumentality of a county.

"Physician" means a doctor of medicine or osteopathy who is legally authorized to practice medicine and surgery by the State.

"Review panel" means the panel established pursuant to section 323D-42.

[(2)] "Secretary" means the secretary of the United States Department of Health[,] and Human Services[,] or the secretary of the federal agency that is the successor to the United States Department of Health and Human Services.

[(3)] "State agency" means the state health planning and development agency established in section 323D-11.

[(4)] "State health services and facilities plan" means the comprehensive[, coordinated] plan for the [development] economical delivery of health services in the State prepared by the statewide council.

[(5)] "Statewide council" means the statewide health coordinating council established in section 323D-13.

[(6)] "Subarea" means one of the geographic subareas designated by the state agency pursuant to section 323D-21.

[(7)] "Subarea council" means a subarea health planning council established pursuant to section 323D-21.

"Substantially modify, decrease, or increase the scope or type of health service" refers to the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided or the termination of such a service which had previously been provided."

SECTION 3. Section 323D-11, Hawaii Revised Statutes, is amended to read as follows:

"§323D-11 State health planning and development agency. There is established within the department of health for administrative purposes only, the state health planning and development agency. The state agency shall be headed by an administrator who shall be appointed by the governor subject to section 26-34. The state agency shall administer the state health planning and cost containment activities [to meet the applicable federal requirements.] as required by law."

SECTION 4. Section 323D-12, Hawaii Revised Statutes, is amended to read as follows:

"§323D-12 [Functions;] Health planning and development functions; state agency. [(a)] The state agency shall:

- (1) Have as a principal function the responsibility for controlling increases in health care costs. The state agency shall conduct such studies and investigations as may be necessary in the causes of health care cost inflation and annually shall recommend to the legislature measures designed to contain health care costs until such time as health care cost inflation substantially moderates. The state agency may contract for services to implement this paragraph. The certificate of need program mandated under part V shall serve this function. The state agency shall promote the sharing of facilities or services by health care providers whenever possible to achieve economies and shall restrict unusual or unusually costly services to individual facilities or providers where appropriate.
- [(1)] (2) Conduct the health planning activities of the State in coordination with the subarea councils, implement the state health services and facilities plan, and determine the statewide health needs of the State [after providing reasonable opportunity for the submission of written recommendations respecting the needs by the department of

health and other state agencies, designated by the governor for the purpose of making the recommendations, and] after consulting with the statewide council. [If any recommendation of any subarea health planning council is not incorporated into the state health services and facilities plan an explanation stating the reasons for nonincorporation shall be appended to that plan.

- (2)] (3) Prepare[, review at least triennially,] and revise as necessary the [preliminary] state health services and facilities plan. [The state agency shall refer the preliminary state health services and facilities plan to the department of health and other state agencies designated by the governor to review the goals and related resource requirements of the preliminary state health services and facilities plan and to make written recommendations to the state agency respecting the goals and requirements.
- (3)] (4) Prepare, review, and revise the annual implementation plan.
- [(4)] (5) Assist the statewide council in the performance of its functions.
- [(5)] (6) Administer the state certificate of need program pursuant to part V [of this chapter].
- [(6)] (7) Determine the need for new [institutional] health services proposed to be offered within the State.
- (8) Assess existing health care services and facilities to determine whether there are redundant, excessive, or inappropriate services or facilities and make public findings of any that are found to be so. The state agency shall weigh the costs of the health care services or facilities against the benefits the services or facilities provide and there shall be a negative presumption against marginal services.
- [(7)] (9) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review, and revision of the state health services and facilities plan.
- [(8)] (10) Prepare an inventory of the health care facilities, other than federal health care facilities, located in the State and evaluate on an ongoing basis the physical condition of and need for the facilities.
- [(9)] (11) Provide technical assistance to persons, public or private, in obtaining and filling out the necessary forms for the development of projects and programs.
- [(10)] Do all things necessary as required by federal and state laws.

(b) If in determining the statewide health needs or in preparing or revising the preliminary state health services and facilities plan, the state agency does not take an action proposed in a written recommendation submitted to the state agency pursuant to subsection (a)(1) or (a)(2), the state agency shall when publishing the needs or the plan make available for public inspection a written statement of its reasons for not taking the action.]”

SECTION 5. Section 323D-13, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is established a statewide health coordinating council which shall be advisory to the state agency and the membership of which as appointed by the governor shall not exceed [thirty] twenty members.

(b) The members of the statewide council shall be appointed by the governor in accordance with section 26-34, provided that a nonvoting, ex officio member who is the representative of the Veterans’ Administration shall be designated by the Veterans’ Administration. The [consumer] membership of the statewide council shall be broadly representative of the age, sex, ethnic, income, and other groups that make up the population of the State[.

The statewide council shall consist of:

- (1) One representative from each subarea council established pursuant to section 323D-21.
- (2) and shall include representation from the subarea councils, business, labor, and health care providers. A majority but not more than [sixty per cent of the persons appointed by the governor] eleven of the members shall be consumers of health care who are not also providers of health care.
- [(3) Not less than one-half of the members who are providers of health care shall be direct providers of health care.
- (4) Representatives of private agencies concerned with health.
- (5) Individuals who are knowledgeable about mental health services.
- (6) A percentage of individuals who reside in nonmetropolitan areas which is equal to the percentage of residents of the State who reside in nonmetropolitan areas.
- (7) At least one member who is representative of a health maintenance organization.

Members of the statewide council who are consumers of health care and who are not providers of health care shall include individuals who represent rural and urban medically underserved populations if these populations exist in the State. In addition the total membership of the statewide council shall include representation as may be required by applicable federal law or implementing federal regulations.]”

SECTION 6. Section 323D-14, Hawaii Revised Statutes, is amended to read as follows:

“§323D-14 Functions; statewide health coordinating council. The statewide council shall:

- (1) Prepare[, review at least triennially,] and revise as necessary the state health services and facilities plan [to meet the applicable federal requirements].

- (2) Review applications for planning and medical facilities grants pursuant to applicable federal requirements, and submit a report of its comments to the secretary pursuant to applicable federal requirements.
- (3) Advise the state agency on [matters relating to its functions.] actions under section 323D-12.
- (4) Review annually and recommend approval or disapproval of any state plan and any application and any revision of a state plan or application submitted to the secretary as a condition to the receipt of any funds under allotments made to the State under the Public Health Service Act, the Community Mental Health Centers Act, section 409 of the Drug Abuse Office and Treatment Act of 1972, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 pursuant to the applicable federal requirements.
- (5) Appoint the review panel pursuant to section 323D-42.
- (6) Review and comment upon the following actions by the state agency before such actions are made final:
 - (A) The establishment, annual review, and amendment of the annual implementation plan.
 - (B) The development and publication of specific plans and programs for achieving the objectives established in the annual implementation plan.
 - (C) The making of grants and contracts from the area health services development fund pursuant to the applicable federal requirements.
 - (D) The making of findings as to the need for new institutional health services proposed to be offered in the State and applications for certificate of need.
 - (E) The making of findings as to the appropriateness of those institutional and [home] noninstitutional health services offered in the State [and with respect to which goals have been established in the state health services and facilities plan, pursuant to the applicable federal requirements].
 - (F) The approval or disapproval of each proposed use of federal health funds within the State, pursuant to the applicable federal requirements.”

SECTION 7. Section 323D-15, Hawaii Revised Statutes, is amended to read as follows:

“§323D-15 State health services and facilities plan. There shall be a state health services and facilities plan [pursuant to the Public Health Service

Act, as amended,] which shall [include a chapter on inpatient care and medical facilities and which shall include the special needs of the geographic subareas within the State to provide a comprehensive and coordinated statewide health care system.] address the health care needs of the State, including inpatient care, health care facilities, and special needs. The plan shall depict the most economical and efficient system of care commensurate with adequate quality of care, and shall include standards for utilization of health care facilities and major medical equipment. The plan shall provide for the reduction or elimination of underutilized, redundant, or inappropriate health care facilities and health care services."

SECTION 8. Section 323D-16, Hawaii Revised Statutes, is amended to read as follows:

"§323D-16 Annual implementation plan. The state agency shall [establish, annually review and amend, as necessary, an annual implementation plan which shall consist of a statement of goals and objectives, a list of priorities for those goals and objectives, and specific programs and projects for achieving stated goals and objectives.] prepare and execute annually an implementation plan which guides the agency in achieving the system of care envisioned in the state health services and facilities plan and administering the certificate of need program. The implementation plan shall embody specific strategies for appropriateness review and other activities designed to produce economical and efficient care, including the setting of priorities for health care facilities, major medical equipment, and health care services."

SECTION 9. Section 323D-43, Hawaii Revised Statutes, is amended to read as follows:

"§323D-43 Certificates of need. (a) No person, public or private, nonprofit or for profit, shall:

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State which require a total capital expenditure in excess of the expenditure minimum; [or]
- (2) Substantially modify, decrease, or increase the scope or type of health service rendered; or
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility, or relocate beds from one physical facility or site to another,

unless a certificate of need therefor has first been issued by the state agency.

(b) No certificate of need shall be issued unless the state agency has [first] determined that [there]:

- (1) There is a public need for the facility or the service[.]; and

- (2) The cost of the facility or service will not be unreasonable in the light of the benefits it will provide and its impact on health care costs.

The state agency may adopt criteria for certificate of need review which are consistent with this section.

Each decision of the state agency to issue a certificate of need shall, except in an emergency situation that poses a threat to public health, be consistent with the state health services and facilities plan in effect under section 323D-15. Each certificate of need issued shall be valid for a period of one year from the date of issuance unless the period is extended for good cause by the state agency[.

(c) The state agency shall, in cooperation with the statewide council and after consultation with the subarea councils, the review panel, health agencies, and health-related agencies, establish criteria which shall be considered by the state agency and the statewide council in their determinations on certificates of need. The state agency and the statewide council shall review the criteria from time to time in order to maintain compliance with applicable federal law and federal regulations and the purposes of this part. The criteria shall include consideration of at least the following:

- (1) The health care needs of the population to be served,
- (2) The relationship of the proposal to the state health services and facilities plan described in section 323D-15 and the annual implementation plan described in section 323D-16,
- (3) The relationship of the proposal to the long-range development plan, if any, of the applicant,
- (4) The relationship of the proposal to the existing health care system of the area,
- (5) The availability of less costly or more effective alternative methods of providing service,
- (6) The quality of the health care services proposed,
- (7) The accessibility of the health care services proposed,
- (8) The immediate and long term financial feasibility of the proposal,
- (9) The probable impact of the proposal on the costs of and charges for providing health services by the applicant,
- (10) The probable impact of the proposal on the overall costs of health services to the community,
- (11) In the case of health services proposed to be provided,
 - (A) The availability of resources, including health manpower, management personnel, and funds for capital and operating needs, for the provision of the services,

- (B) The effect of the means proposed for the delivery of the services on the clinical needs of health professional training programs in the area in which the services are to be provided,
 - (C) If the services are to be available in a limited number of facilities, the extent to which the health-profession schools in the area will have access to the services for training purposes,
 - (D) The availability of alternative uses of the resources for the provision of other health services, and
 - (E) The extent to which the proposed services will be accessible to all the residents of the area to be served by the services,
- (12) The relationship of the services proposed to ancillary or support services,
 - (13) The special needs and circumstances of those entities which provide a substantial portion of their services to people who live outside the State,
 - (14) The special needs and circumstances of health maintenance organizations,
 - (15) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages,
 - (16) In the case of a construction project,
 - (A) The costs and methods of the proposed construction, including the costs and methods of energy provision, and
 - (B) The probable impact of the construction project reviewed on the costs of providing health services by the applicant and on the costs and charges to the public of providing health services by other persons,
 - (17) The availability of evaluation mechanisms for supplying information to the state agency as required in section 323D-52,
 - (18) The applicant's compliance with federal, state, or county licensure standards,
 - (19) The special circumstances of health service institutions and the need for conserving energy,
 - (20) The factors which affect the effect of competition on the supply of the health services being reviewed, pursuant to the applicable federal requirements,
 - (21) Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with the applicable federal requirements, and which serve to promote quality assurance and cost effectiveness,

- (22) In the case of proposed health services or facilities, the efficiency and appropriateness of the use of existing health services or facilities similar to those proposed,
- (23) In the case of existing health services or facilities, the quality of care provided by the health services or facilities in the past,
- (24) In the case of an osteopathic or allopathic facility, the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients,
- (25) The probable impact of the proposal on existing and proposed institutional training programs for doctors of medicine and osteopathy at the student, internship, and residency training levels.

(d) Criteria adopted for reviews in accordance with this section may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed.] and expenditures for the project shall not exceed the maximum amount of the expenditures approved in the certificate of need."

SECTION 10. Section 323D-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An applicant for a certificate of need shall file an application with the state agency. The state agency shall provide technical assistance to the applicant in the preparation and filing of the application.

Each application shall include a statement evaluating the facility's or service's probable impact on health care costs. The statement shall include, in addition to an estimate of the total cost, a projection of the effect the facility or service will have on the following: total patient care budget; total number of admissions; total number of patient days; total number of outpatient visits; and such other information as the state agency may request. The statement shall include cost projections for at least the first and fifth years after its approval.

The state agency shall not accept an application for review until the application is complete and includes all necessary information required by the state agency. The state agency shall determine if the application is complete within thirty days of receipt of the application. If the state agency determines that the application is incomplete, the state agency shall inform the applicant of the additional information that is required to complete the application. When the state agency determines that the application is complete, the period for agency review described in subsection (b) shall begin, and the state agency shall transmit the completed application to the appropriate subarea councils, the review panel, the statewide council, appropriate individuals, and appropriate public agencies. The state agency may require the applicant to provide copies of the application to the state agency, the appropriate subarea councils, the review panel, the statewide council, appropriate individuals, and appropriate public

agencies. If, during the period for agency review, the state agency requires the applicant to submit information respecting the subject of the review, the period for agency review shall, at the request of the applicant, be extended fifteen days."

SECTION 11. Section 323D-45, Hawaii Revised Statutes, is amended to read as follows:

"§323D-45 Subarea council, review panel, and statewide council recommendations for issuance or denial of certificates of need. (a) Except in an emergency situation or other unusual circumstances as provided in section 323D-44(c), the state agency shall refer every application for a certificate of need to the appropriate subarea council or councils, the review panel, and the statewide council. The subarea council[,] and the review panel[, and the statewide council in studying each application] shall consider all relevant data and information submitted by the state agency, subarea councils, [the review panel,] other areawide or local bodies, and the applicant, and may request from them additional data and information. The review panel shall consider each application at a public meeting and shall submit its recommendations with findings to the statewide council. The statewide council shall consider [each application] the recommendation of the review panel at a public meeting and shall submit its recommendations to the state agency within such time as the state agency prescribes.

(b) At a public meeting in which a subarea council[,] or the review panel[, or the statewide council] considers an application for a certificate of need, any person shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the application; any person directly affected by the application may conduct reasonable questioning of persons who make factual allegations relevant to the application; any staff member of the state agency may conduct reasonable questioning of persons who make factual allegations relevant to the application; and a record of the meeting shall be kept."

SECTION 12. Section 323D-45.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding section [323D-43(c),] 323D-43, the state agency shall approve an application for a certificate of need from a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, if the state agency finds, in accordance with criteria prescribed by the secretary by regulation, that:

- (1) Approval of the application is required to meet the needs of the members of the health maintenance organization and of the new

members which the organization can reasonably be expected to enroll, and

- (2) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes the services available on a long-term basis through physicians and other health professionals associated with the organization."

SECTION 13. Section 323D-45.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding section [323D-43(c),] 323D-43, the state agency shall approve an application for a certificate of need for a capital expenditure which is required:

- (1) To eliminate or prevent imminent safety hazards as defined by federal, state, or county fire, building, or life safety codes or regulations, [or]
- (2) To comply with state licensure standards, or
- (3) To comply with accreditation standards, compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under title XIX of such Act,

unless the state agency finds that the facility or service with respect to which the capital expenditure is proposed to be made is not needed or that the obligation of the capital expenditure is not consistent with the state health services and facilities plan in effect under section 323D-15."

SECTION 14. Section 671-1, Hawaii Revised Statutes, is amended by amending the definition of "health care provider" to read as follows:

- "(1) "Health care provider" means a physician or surgeon licensed under chapter 453, a physician or a physician and surgeon licensed under chapter 460, a health care facility as defined in section [323D-41(7),] 323D-2, and the employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such institution or service."

SECTION 15. Section 323D-12.5, Hawaii Revised Statutes, is repealed.

SECTION 16. Section 323D-41, Hawaii Revised Statutes, is repealed.

SECTION 17. Section 323D-46.1, Hawaii Revised Statutes, is repealed.

SECTION 18. Notwithstanding section 323D-13, Hawaii Revised Statutes, the terms of members on the statewide health coordinating council on July 1, 1984 or appointed to the council after June 30, 1984, but prior to July 1, 1985, shall terminate on June 30, 1985. After June 30, 1985, members of the statewide health coordinating council shall be appointed in accordance with section 323D-13, Hawaii Revised Statutes; provided that the first appointees after June 30, 1985:

- (1) Shall be considered initial appointees for the purposes of establishing staggered terms under section 26-34, Hawaii Revised Statutes; and
- (2) Shall be appointed to terms beginning on July 1, 1985 but ending on December 31 of the appropriate years, notwithstanding section 26-34, Hawaii Revised Statutes.

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii the sum of \$216,000, or so much thereof as may be necessary for fiscal year 1984-1985, to implement the provisions of this Act.

The sum appropriated shall be expended by the state health planning and development agency for the purposes of this Act.

SECTION 20. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 21. This Act shall take effect on July 1, 1984, but shall not apply to any certificate of need application filed with the state health planning and development agency which the agency has determined to be complete prior to the effective date of this Act.

(Approved June 5, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 268

H.B. NO 2523-84

A Bill for an Act Relating to Safe Drinking Water.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 340E-4, Hawaii Revised Statutes, is amended to read as follows:

"[[§340E-4]] **Imminent hazards.** The director [may,] shall, upon learning that a contaminant is present in or is likely to enter a public water

system and may present an imminent and substantial danger to the public, take such actions necessary to protect the health of the public. The actions which the director may take include but are not limited to:

- (1) Issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers); and
- (2) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction."

SECTION 2. Section 340E-6, Hawaii Revised Statutes, is amended to read as follows:

"**[]§340E-6[] Notification of users and department.** Whenever a public water system:

- (1) Fails to comply with an applicable maximum contaminant level, treatment technique, or testing procedure requirement of a State Primary Drinking Water Regulation;
- (2) Fails to perform monitoring required by regulations adopted by the director;
- (3) Is subject to a variance granted for an inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements of any schedule prescribed by such a variance or exemption[.];

the public water system shall promptly notify the department and local communications media of the conditions and the extent to which they may impose adverse effects on public health[.] and the corrective action being taken when appropriate. At least once every three months so long as the failure, variance, or exemption continues, the public water system shall also publish notice in a newspaper of general circulation within the areas served by the public water system. [Such] The notice shall also accompany the water bills of the public water system so long as the failure, variance, or exemption continues[, as follows: if the water bills are issued more than once every three months, such notice shall be included in at least one water bill of the system for each customer every three months; if the water bills are issued less than once every three months, such notice shall be included in each of the water bills issued by the system for each customer]. The director shall prescribe by [regulations] rules the form and manner for giving such notice. [Such regulations] The rules may contain such additional public notification requirements as the director determines are necessary to best effectuate the purpose of this section and may also contain alternative notice requirements for systems principally serving nonresident users."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1984.)

ACT 269

S.B. NO. 1835-84

A Bill for an Act Relating to Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

"§281-31 Licenses, classes. (a) Licenses may be granted by the liquor commission as provided in this section.

(b) Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

(c) Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods; provided that samples of liquor may be sold back to the manufacturer. The license may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption if the licensee files an affidavit with the commission that there is not a class 4 retail dealers licensee available to sell the wholesalers brand of draught beer. Under

the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license. Nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

(d) Class 4. Retail dealers' licenses. A license to sell liquors at retail or to class 10 licenses, shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

(e) Class 5. Dispensers' licenses. A license under this class shall authorize the licensee to sell liquors herein specified for consumption on the premises. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

- (1) A standard bar;
- (2) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (3) A premise in which live or recorded music is played and in which facilities for dancing by the patrons are provided; or
- (4) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or [entertainer] entertainers are consuming nonalcoholic beverages while in the company of such patrons.

If the¹ licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of class 5 licenses there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

(f) Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

(g) Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

(h) Class 8. Additional vessel licenses. A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

(i) Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

(j) Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such

conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

(k) Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, or professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

(l) Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors authorized by retail dealers' licenses.

(m) Class 13. Caterer license. A general license may be granted to the owner of any catering service for the sale of liquor (other than alcohol) while performing catering functions; provided that the sales are made only upon the premises of the patron contracting the catering services. Under this license, it shall be lawful for any caterer to promote, encourage, aid or permit the consumption of liquor on the premises, except during the hours between which licensed premises of dispensers are permitted to be open for the transaction of business in the county where the premises are located.

No catering service for the sale of liquor to commercial establishments will be performed unless prior written notice of the service has been delivered to the office of the liquor commission of the county concerned. The notice shall state the date, time, and location of the proposed event.

The intent of a caterer license is to provide service to patrons at a location other than that of the caterer's premises. Use of the caterer license as a substitute for a licensed dispenser premises is prohibited.

[(m)] (n) It shall be unlawful for any retail licensee (Classes 4 through [12] 13) to purchase liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to classes 7 to 10[,] and 13."

SECTION 2. Section 281-33.1, Hawaii Revised Statutes, is amended to read as follows:

“[]§281-33.1[]] **Individual permits to receive shipments of liquor.** (a) Notwithstanding any other provisions of law, any unlicensed adult person may apply to the liquor commission and be issued, for a nominal fee, except as hereinafter provided, a permit to receive a single shipment of liquor from outside the State, not to exceed five gallons, (19 liters), for use and consumption by the applicant and his household and not for sale in any form.

(b) In the case of a shipment which the applicant shows is an unsolicited gift, the quantities permitted to be received under subsection (a) above shall be limited to 3.2 gallons (12 liters) in total of all kinds of liquor.

(c) In the case of a shipment in respect of which the applicant shows to the liquor commission that the liquor was prior to the date of the application the personal property of the applicant, formed a part of his household goods, was used and stored outside the State, and was originally acquired (or made by the applicant) outside the State, the quantity of wine, or other liquor capable of aging and originating from grapes or other fruit, which shall be permitted to be received under subsection (a) above may exceed the limit there stated if the commission finds that it is reasonable to do so consistent with the intent of this statute to allow persons taking up residency in the State the free movement of their household goods into this State.

(d) In the case of a shipment of wine or beer which is otherwise available in the State, the permit shall not be issued unless the applicant shall pay a fee equal to the tax that would be imposed by section 244-4 upon the use of liquor having a wholesale price equal to the price paid or to be paid by applicant for the wine or beer being shipped, and such fee shall be in lieu of the imposition by section 244-4 of any tax upon the use of such wine or beer.

[(d)] (e) Except in the case of applications meeting the requirements of subsections (b) [or], (c), or (d), the permit shall not be issued unless the applicant demonstrates to the satisfaction of the liquor commission that each of the brands to be brought in under the permit is otherwise unavailable in the State[, and that the manufacturer of such brand would be willing to list prices for such brand pursuant to section 281-43 if channels for distribution in the State were available].

(e) (f) No more than one permit may be issued pursuant to subsection (a) in respect of any one household in any calendar year, and each applicant shall be required to affirm, under penalty of perjury, that no member of his household has previously received such a permit in the applicable calendar year.

(f) (g) All such applications and shipments shall be in accordance with regulations promulgated by the liquor commission.

(g) (h) A common carrier to whom the permit is presented is authorized to make delivery of the described shipment to the person named in the permit. Delivery of such a shipment pursuant to the permit shall not be deemed to constitute a sale in this State.”

SECTION 3. Section 281-47, Hawaii Revised Statutes, is amended to read as follows:

“[]§281-47[]] **Standard bar; music and dancing available.** Any standard bar establishment may provide [live or recorded music and dancing] facilities for dancing by patrons, including a dance floor and live or recorded music, if the establishment is located in a commercial district and obtains the approval of the commission to provide such services on a one time trial basis not to exceed ninety days[.]; provided that the music and dancing shall be allowed only during the trial period.”

SECTION 4. Section 281-57, Hawaii Revised Statutes, is amended to read as follows:

“§281-57 **Notice.** Upon the filing of the inspector’s report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10 and 13) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than forty-five days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission’s fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application, to not less than two-thirds of the owners and lessees of record of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than forty-five days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the owners and lessees of record of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition, for each condominium project within the affected area, one notice of the hearing shall be

sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved. For purposes of this section, notice to one co-owner and one co-lessee shall be sufficient notice to all co-owners and all co-lessees."

SECTION 5. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§281- Supplier to report all sales. A supplier as defined in §281-121(1) is required to report to the commission all direct and indirect sales and shipments to persons licensed pursuant to this chapter and all direct and indirect sales and shipments, to any federal enclave such as, but not limited to, any military base, post exchange or similar operation located within the State. Duplicate copies of invoices from suppliers shall satisfy this requirement."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 7. This Act shall take effect upon its approval.

(Approved June 6, 1984.)

Notes

1. Prior to amendment, "the" read "a".
2. Edited pursuant to HRS §23G-16.5.

ACT 270

S.B. NO. 2125-84

A Bill for an Act Relating to Pensioner's Bonus.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-11, Hawaii Revised Statutes, is amended to read as follows:

"§88-11 Bonus; amounts available. Except as herein provided, every pension payable under the employees retirement system or payable pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

- (1) Effective July 1, 1976, \$77.82 per month to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of his duty as a public employee shall be entitled to receive the bonus payment without meeting the minimum service requirement;

- (2) Effective July 1, 1976, \$31.12 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;
- (3) Effective July 1, 1976, \$31.12 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;
- (4) Effective July 1, 1976, if the pension as increased by the bonus or bonuses does not equal \$202.32 per month, the bonus shall be further increased by such sum, not in excess of \$31.12, as will bring the total of the pension and bonus to \$202.32 per month; provided that where the dependents of a deceased pensioner are receiving pension by reasons of his death, the total only of all amounts paid to the dependents shall be so increased, and the increase herein shall be shared by them in proportion to the respective amount of pension receivable by them exclusive of this increase;
- (5) In the case of any retirement allowance for service commencing after June 30, 1965, pursuant to paragraph (1) or (3) of section 88-74, the only bonus payable shall be in the amount by which the benefit payable under the paragraphs is less than the bonus as set forth above[.]; provided that in no case shall a person who retires after June 30, 1965, receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than he would have received if paragraph (5) had not been enacted;
- (6) Any provisions of this section to the contrary notwithstanding, there shall be paid to every person who on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
 - (A) On January 1, 1966, seven and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1969, an additional ten per cent of the retirement allowance or pension;
 - (C) On July 1, 1970, an additional ten per cent of the retirement allowance or pension;
 - (D) On July 1, 1973, an additional five and one-half per cent of the retirement allowance or pension;
 - (E) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (7) Any provision of this section to the contrary notwithstanding, there shall be paid to every person who retired between July 1, 1965, and

June 30, 1970, and who, on June 30, 1974, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:

- (A) On July 1, 1974, five and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (8) Any other provision to the contrary notwithstanding, effective July 1, 1980, there shall be paid to every person who retired prior to July 1, 1975, and who on June 30, 1980, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) \$4.50 a month for each year of the retirant's or pensioner's credited service, if the person retired prior to July 1, 1965;
 - (B) \$2.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1965, but prior to July 1, 1970; and
 - (C) \$1.00 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970, but prior to July 1, 1975;

provided that if the retirant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph [(8)] shall be paid to those retirants or pensioners who have eight or less years of credited service[.];

- (9) Any other provision to the contrary notwithstanding, effective July 1, 1984, there shall be paid to every person who retired after June 30, 1970, but prior to July 1, 1979, and who on June 30, 1984, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) \$.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970, but prior to July 1, 1975;

(B) \$1.00 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1975, but prior to July 1, 1979; provided that if the retirant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph shall be paid to those retirants or pensioners who have eight or less years of credited service."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1984-1985, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of budget and finance.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1984.

(Approved June 7, 1984.)

ACT 271

H.B. NO. 1311

A Bill for an Act Relating to Public Agency Meetings and Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 92-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least [seventy-two hours] six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible. No board shall change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda [in the manner provided herein] if it is of reasonably major importance and action thereon by the board will affect a significant number of persons."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1984.)

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

"§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the [state service] State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the intermediate appellate court and of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of

- the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
 - (19) Household employees at the official residence of the president of the University of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
 - (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
 - (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1984.)

ACT 273

H.B. NO. 2161-84

A Bill for an Act Relating to Amendment to the Bicycle Laws.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that certain state laws relating to the use and operations of bicycles are outdated and responsible for some of the confusion that exists among motorists and bicyclists over the bicycle's rightful place on the road. At the core of this problem is the treatment of bicycles as children's toys somewhere between a vehicle and a pedestrian. With the increased use of bicycles as a basic mode of transportation as well as for recreation, there is a critical public safety need to address this problem. Therefore, the purpose of this Act is to amend those sections of the Hawaii Revised Statutes relating to bicycles to conform with the uniform vehicle code, where applicable, and to provide for more progressive, safer bicycle laws.

SECTION 2. Section 249-17.5, Hawaii Revised Statutes, is amended to read as follows:

"[] §249-17.5[] **Bikeway fund; established.** All taxes collected under sections 249-14 and 249-14.5 shall be deposited in a fund to be known as the "bikeway fund" and shall be expended in the county in which the taxes are collected for the following purposes:

- (1) For acquisition, design, construction, improvement, repair, and maintenance of bikeways, including the installation and repair of storm drains and bridges;
- (2) For installation, maintenance, and repair of bikeway lights and power, including replacement of old bikeway lights;
- (3) For purposes and functions connected with traffic control and preservation of safety upon bikeways; [and]
- (4) For payment of interest on and redemption of bonds issued to finance bikeway construction and improvements[.]; and
- (5) For the promotion of bicycling transportation and recreation."

SECTION 3. Section 291C-1, Hawaii Revised Statutes, is amended to read as follows:

“§291C-1 Definitions. As used in this chapter:

[(1)] “Alley” means a street or highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.

[(2)] “Arterial street” means any United States or state numbered route, controlled access highway, or other major radial or circumferential street or highway designated by counties within their respective jurisdictions as part of a major arterial system of streets or highways.

[(3)] “Authorized emergency vehicle” includes such fire department vehicles, police vehicles, and ambulances as are publicly owned and such other publicly or privately owned vehicles as are designated by the city or county council.

[(4)] “Bicycle” means every [device] vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, [sixteen inches in diameter or greater,] and including any [device] vehicle generally recognized as a bicycle though equipped with two front or two rear wheels[.] except a toy bicycle.

[(5)] “Bicycle lane” means that portion of any highway which has been set aside for the preferential or exclusive use of bicycles.

[(6)] “Bicycle path” means any facility set aside for the preferential or exclusive use of bicycles and physically separated from a highway.

[(7)] “Bicycle route” means any highway that is designated to be shared by bicycles and pedestrians or motor vehicles, or both.

[(8)] “Bikeway” means a bicycle lane, bicycle path, or bicycle route, or any traffic control device, shelter, parking facility, or other support facility to serve bicycles and persons using bicycles.

[(9)] “Bus” means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons; and every motor vehicle, other than a school bus or a taxicab, designed and used for the transportation of persons for compensation.

[(10)] “Business district” means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

[(11)] “Controlled-access highway” means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points

only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

[(12)] "Crosswalk" means [(A)]:

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

[(B)] (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

[(13)] "Driver" means every person who drives or is in actual physical control of a vehicle.

[(14)] "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

[(15)] "House trailer" means:

[(A)] (1) A trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or

[(B)] (2) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in [subparagraph (A),] paragraph (1), but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[(16)] "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

[(17)] "Laned roadway" means roadway which is divided into two or more clearly marked lanes for vehicular traffic.

[(18)] "Moped" means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of one and one-half horsepower (one thousand, one hundred nineteen watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the device unassisted, on a level surface at a maximum speed no greater than thirty-five miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

[(19)] "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails but excludes a moped.

[(20)] "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excludes a farm tractor and a moped.

[(21)] "Motor scooter" means every motorcycle which produces not more than five horsepower, and excludes a moped.

[(22)] "Official traffic-control devices" mean all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

[(23)] "Owner" means a person, other than a lien-holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

[(24)] "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

[(25)] "Pedestrian" means any person afoot, in an invalid chair, or in a vehicle propelled by a person afoot.

[(26)] "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

[(27)] "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[(28)] "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

[(29)] "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[(30)] "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

[(31)] "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

[(32)] "Right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

[(33)] "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.

[(34)] "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[(35)] "School bus" means every motor vehicle as defined in section 286-181 and any regulations promulgated pursuant thereto by the department of education.

[(36)] "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

[(37)] "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

[(38)] "Stop" when required means complete cessation from movement.

[(39)] "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

[(40)] "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

[(41)] "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law.

“Toy bicycle” means every device propelled solely by human power upon which any person may ride, having two tandem wheels, including any device generally recognized as a bicycle though equipped with two front or two rear wheels, which has a seat height of not more than twenty-five inches from the ground when the seat is adjusted to its highest position; or a scooter or similar device regardless of seat height.

[(42)] “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

[(43)] “Traffic-control signal” means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[(44)] “Urban district” means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

[(45)] “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, [but excludes] including mopeds and bicycles, but excluding toy bicycles, devices other than bicycles moved by human power [or], and devices used exclusively upon stationary rails or tracks; and mopeds].”

SECTION 4. Section 291C-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving, and shall upon request and if available exhibit his license or permit to drive to any person injured in the accident or to the driver or occupant of or person attending any vehicle or other property damaged in the accident and shall give such information and upon request exhibit such license or permit to any police officer at the scene of the accident or who is investigating the accident and shall render to any person injured in the accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person[.]; provided that if the vehicle involved in the accident is a bicycle, the driver of the bicycle need not exhibit a license or permit to drive.”

SECTION 5. Section 291C-50, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The driver of a [motor] vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.”

SECTION 6. Section 291C-81, Hawaii Revised Statutes, is amended to read as follows:

“§291C-81 Required position and method of turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. [Where a bicycle lane adjacent to the edge of the roadway is designated by appropriate traffic lane markings, the edge of the bicycle lane nearest the center of the roadway shall be deemed the equivalent of the edge of the roadway.]
- (2) Left turns. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) The director of transportation and the counties in their respective jurisdictions may cause official traffic-control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices.”

SECTION 7. Section 291C-84, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning[.]; provided that for a bicycle or moped, such signal shall be given continuously during not less than the last one hundred feet traveled by the bicycle or moped before turning, and shall be given when the bicycle or moped is stopped waiting to turn; and further provided that a signal by hand and arm need not be given continuously by the driver of a bicycle or moped if the hand is needed in the braking, control, or operation of the bicycle or moped.”

SECTION 8. Section 291C-102, Hawaii Revised Statutes, is amended to read as follows:

“[]§291C-102[] Noncompliance with speed limit prohibited. (a) No person shall drive a [motor] vehicle at a speed greater than a maximum speed limit [or] and no person shall drive a motor vehicle at a speed less than a minimum speed limit established by county ordinance.

(b) The director of transportation with respect to highways under his jurisdiction may place signs establishing maximum speed limits or minimum speed limits. Such signs shall be official signs and no person shall drive a [motor] vehicle at a speed greater than a maximum speed limit [or] and no person shall drive a motor vehicle at a speed less than a minimum speed limit stated on such signs.”

SECTION 9. Section 291C-103, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [No] Except as provided in section 291C- , no person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition.”

SECTION 10. Section 291C-123, Hawaii Revised Statutes, is amended to read as follows:

“§291C-123 Driving upon bikeway [or sidewalk]. No person shall drive any vehicle other than a bicycle or moped upon a bicycle lane[,] or bicycle path, [sidewalk, or sidewalk area] except upon a permanent or authorized temporary driveway; provided that any vehicle may be driven in a bicycle lane or bicycle path as applicable if:

- (1) It is in the process of executing a legal turn, lane change, or parking maneuver;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law.”

SECTION 11. §291C-144, Hawaii Revised Statutes, is amended to read as follows:

“[[§291C-144]] Clinging to vehicles. No person riding upon any [bicycle,] coaster, roller skates, sled, or toy bicycle or other toy vehicle shall attach it or himself or herself to any vehicle upon a roadway[.], and no person riding a bicycle or moped upon any roadway shall attach the bicycle or moped or himself or herself to any vehicle other than the one he or she is riding.”

SECTION 12. Section 291C-145, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Persons riding bicycles upon a roadway shall ride in single file; provided that where the flow of traffic is unimpeded, [upon bicycle lanes and bicycle paths,] riding two abreast upon bicycle lanes and bicycle paths shall be permitted when such lane or path is of sufficient width to allow riding two abreast unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.”

SECTION 13. Section 291C-146, Hawaii Revised Statutes, is amended to read as follows:

“[[§291C-146]] Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the [driver from keeping at least one hand upon the handle bars.] use of both hands in the control and operation of the bicycle. A person operating a bicycle shall keep at least one hand on the handle bars at all times.”

SECTION 14. Section 291C-147, Hawaii Revised Statutes, is amended to read as follows:

“§291C-147 Lamps and other equipment on bicycles. (a) Any bicycle used [upon any highway] from thirty minutes after sunset until thirty minutes before sunrise shall [display a lighted lamp, facing forward, which shall meet the following specifications:

- (1) Emit a white light;
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the front of the bicycle from a distance of at least five hundred feet.

(b) A tail lamp when used on a bicycle shall meet the following specifications:

- (1) Emit a red light; and,
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the rear of the bicycle from a distance of at least five hundred feet.

(c) A lamp meeting the specifications of subsections (a) and (b) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsections (a) and (b).

(d) After December 31, 1974, no person shall use any bicycle upon any highway from thirty minutes after sunset until thirty minutes before sunrise unless the bicycle or the operator is equipped with Class A reflectors meeting the specifications of the Society of Automotive Engineers Standard J594d-1970, or an area of reflectorized material, as follows:

- (1) A crystal (white) reflector with a minimum of three square inches in area or six square inches of white reflectorized material on the front facing straight ahead in a position which will not be obstructed at any time when viewed from the front of the bicycle;
- (2) An amber reflector with a minimum of three square inches in area or twelve square inches of amber reflectorized material on each side facing outward;
- (3) Amber reflectors on both front and rear surfaces of all pedals;
- (4) A red reflector with a minimum of three square inches in area facing to the rear in a position which will not be obstructed at any time when viewed from the rear; and

(5) The requirements of item (2) of this subsection shall not apply to bicycles having a reflectorized finish covering the entire bicycle frame.

(e) After December 31, 1974, no person shall use any bicycle upon the highway unless it is equipped with a bell or any other device, except a siren or a whistle which are prohibited, capable of giving a signal audible for a distance of at least one hundred feet.] be equipped with a lamp on the front emitting a white light visible from a distance of at least five hundred feet to the front.

(b) Every bicycle shall be equipped with a red reflector at least four square inches in size which shall be visible for six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(c) Every bicycle when in use at the time described in subsection (a) shall be equipped with reflective material at least four square inches in size and of sufficient size and reflectivity to be visible from both sides for six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred feet.

(d) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by the foregoing subsections.

(e) A lamp meeting the specification of subsection (a) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsection (a).

(f) A bicycle shall be equipped with a brake [which will enable the operator to make the braked wheels skid] or brakes which enable the bicycle's driver to stop the bicycle within twenty-five feet from a speed of ten miles per hour on dry, level, clean pavement."

SECTION 15. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§291C- Driving upon sidewalk. (a) Except as provided in subsection (b), no person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or authorized temporary driveway.

(b) Unless otherwise prohibited, a bicycle may be driven at a speed of ten miles per hour or less on a sidewalk or sidewalk area; provided that the driver of the bicycle shall yield the right of way to any pedestrian and that bicycle riding shall be prohibited on sidewalks in business districts."

SECTION 16. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§291C- Bicycle racing. (a) Bicycle racing on the highways is prohibited except as authorized in this section.

(b) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by local authorities for any highway under their respective jurisdictions or for state highways, by the director of transportation. The director may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(c) By agreement with the local authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users."

SECTION 17. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 18. This Act shall take effect upon its approval.

(Approved June 7, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 274

H.B. NO. 2268-84

A Bill for an Act Relating to the Family Courts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-46, Hawaii Revised Statutes, is amended to read as follows:

“§571-46 Criteria and procedure in awarding custody. In the actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court may, during the pendency of the action, at the final hearing or any time during the minority of the child, make such order for the custody of the minor child as may seem necessary or proper. In awarding the custody, the court is to be guided by the following standards, considerations, and procedures:

- (1) Custody should be awarded to either parent or to both parents according to the best interests of the child.
- (2) Custody may be awarded to persons other than the father or mother whenever such award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall prima facie be entitled to an award of custody.
- (3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, his wishes as to custody shall be considered and be given due weight by the court.
- (4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court shall make investigations and reports which shall be made available to all interested parties and counsel before hearing, and such reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence provided the person or persons responsible for the report are available for cross-examination as to any matter which has been investigated.
- (5) The court may hear the testimony of any person or expert produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that his testimony is relevant to a just and reasonable determination of what is to the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue.
- (6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change and wherever practicable, the same person who made the original order shall hear the motion or petition for modification of the prior award.
- (7) Reasonable visitation rights shall be awarded to parents, grandparents, and [to] any person interested in the welfare of the child in the

discretion of the court, unless it is shown that such rights of visitation are detrimental to the best interests of the child.

- (8) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved June 7, 1984.)

ACT 275

H.B. NO. 2612-84

A Bill for an Act Relating to Environmental Quality.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Title 19, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER PESTICIDES AND ENVIRONMENTAL QUALITY

§ -1 **Findings and purpose.** The legislature finds that the problem of pesticide contamination has increased in scope and urgency, requiring a comprehensive and innovative approach in statewide efforts to address recent problems in our various communities. The legislature further finds that the enhancement of the authority of the office of environmental quality and control and the delegation to the office of additional responsibilities to protect and preserve the health of Hawaii's people are appropriate responses to a compelling state interest.

Accordingly, the purpose of this chapter is to delegate to the office of environmental quality control the following additional and specific responsibilities: coordinating the establishment of an integrated pesticide policy; coordinating agency responsibilities and programs in the area of pesticide use and environmental quality; conducting, contracting for, and coordinating research on pesticide use; and serving as a central clearinghouse for information collection, classification, and dissemination.

§ -2 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Affected agencies” means the department of health, department of agriculture, the department of land and natural resources; the boards of water supply for Maui county, Kauai county, Hawaii county, and the city and county of Honolulu; the college of tropical agriculture and human resources, the pesticide hazard assessment project, and the water resources research center of the University of Hawaii; and other agencies as may be determined by the director.

“Director” means the director of environmental quality control.

“Office” means the office of environmental quality control.

§ -3 Duties and responsibilities in general. The office shall coordinate all affected agencies involved in the prevention, monitoring, and mitigation of ground water contamination. To further the purposes of this chapter, the office shall:

- (1) Coordinate studies of potentially toxic and hazardous pesticides used in the State to determine the movement and fate of such pesticides in soils, potable water sources, animal feed, and food products.
- (2) Coordinate systematic monitoring by the department of health and board of water supply of all aquifers and surface water sources, regardless of whether they are used as drinking water sources, for locally-suspected pesticides and chemical by-products. Monitoring priority shall be given to potable aquifers and surface water resources.
- (3) Assist the department of agriculture in developing, compiling, and maintaining a data base of historical and current pesticide use patterns and practices to assist in identifying areas where ground water contamination resulting from the field application of pesticides is most likely to occur.
- (4) Coordinate the development, by each of the affected agencies, of a pesticides action plan which clearly defines each agency's responsibilities, needs, and procedures for preventing or mitigating pesticide-related contamination.
- (5) Coordinate the establishment of a mandatory reporting system for all pesticides sold and distributed in Hawaii.
- (6) Assess the feasibility of a record-keeping requirement for the application of all restricted use pesticides in Hawaii.
- (7) Coordinate the preparation by the affected agencies of a contingency plan to provide for the State's preparedness and ability to respond effectively in the event of any emergency or crisis situation involving pesticides or other toxic or hazardous substance. The plan shall provide for the establishment of a communication and information network of the affected agencies and shall include

recommendations for improved coordination of information dissemination and public education.

- (8) Develop criteria to assess the risks associated with the contamination of water, food products, and the environment by pesticides, supplementing federal standards in this area.
- (9) Coordinate and disseminate on behalf of the affected agencies all public information on pesticide-related environmental and health matters.

§ -4 **Powers and duties of the director.** (a) To further the purposes of this chapter, the director shall have the power to:

- (1) Accept grants-in-aid or outright grants;
- (2) Contract for services;
- (3) Enlist the aid of community organizations and private entities in information gathering and dissemination activities; and
- (4) Hire on a contractual basis individuals from relevant fields, to include at least one environmental toxicologist.

(b) The powers and duties provided in this section are in addition to those assigned the director in section 341-4.

§ -5 **Rules.** In conformity with and subject to chapter 91, after consultation with the affected agencies the director shall make rules deemed necessary for or conducive to proper application and enforcement of this chapter.

§ -6 **Advisory committee.** There shall be established a technical advisory committee on pesticides to assist and advise the office in carrying out the purposes of this chapter. The committee shall be composed of the chairperson of the environmental council, one representative each from the department of agriculture, the department of health, the department of land and natural resources, the Honolulu board of water supply, and the University of Hawaii, and five at-large members representing a mixture of disciplines and including at least one member each from the U.S. military in Hawaii, the agricultural industry, an environmental organization, and a community organization. Members of the advisory committee shall be appointed by the governor in accordance with section 26-34. The committee shall be chaired by the director or the director's designated representative.

§ -7 **Repeal date.** This chapter is repealed effective June 30, 1985."

SECTION 2. Section 341-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created an office of environmental quality control which shall be headed by a single executive to be known as the director of environmental quality control who shall be appointed by the governor as provided in section 26-34. This office shall implement this chapter and shall be

placed within the department of health for administrative purposes. The office shall perform its duties under [chapter] chapters 343 and and shall serve the governor in an advisory capacity on all matters relating to environmental quality control."

SECTION 3. Section 141-1, Hawaii Revised Statutes, is amended to read as follows:

"§141-1 Duties in general. The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
 - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants, or other vegetation, the ways and means of exterminating such pests and diseases as are already in the State and preventing the introduction of those not yet here;
 - (B) General agriculture. Fruits, fibres, and useful or ornamental plants and their introduction, development, and care, and concerning the manufacture or exportation of the same with a view to introducing, establishing, and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. In all respects endeavor, as far as possible, to encourage and work in harmony and cooperate with the federal Agricultural Experiment Station established in the State and all private persons or organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 149A, and to avoid, as far as practicable, duplicating the work of such persons or organizations;
- (3) Agreements with other organizations. Upon approval of the governor, enter into contracts, cooperative agreements, or other transactions with any person, agency, or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;
- (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 149A and make the same available for public information and consultation;

- (5) Buildings and apparatus. Provide such buildings, grounds, apparatus, and appurtenances as may be necessary or proper for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 149A; and for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and also any other apparatus or appurtenances necessary or proper for the purposes of carrying chapters 141, 142, and 144 to 149A into execution;
- (6) Further legislation. Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for the better securing of the objects of chapters 141, 142, and 144 to 149A;
- (7) Annual reports. Make and publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter of chapters 141, 142, and 144 to 149A, and which the department may deem proper;
- (8) Planning and development. Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department of agriculture shall act to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands[.];
- (9) Notification to office of environmental quality control. Notify the office of environmental quality control whenever a pesticide registration exemption in Hawaii is applied for or requested from the Environmental Protection Agency or any successor agency."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$160,000, or so much thereof as may be necessary for fiscal year 1984-1985, to carry out the purpose of this Act, including the hiring

of necessary temporary staff whose employment shall terminate on June 30, 1985. The sum appropriated shall be expended by the department of health.

SECTION 6. This Act shall take effect upon its approval and shall be repealed on June 30, 1985.

(Approved June 7, 1984.)

A Bill for an Act Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§286- Salvage certificate. (a) An application for a salvage certificate shall be accompanied by a fee in an amount determined by the director of finance and shall contain:

- (1) The name and address of the applicant;
- (2) A description of the vehicle being salvaged; and
- (3) Any further information reasonably required by the director of finance.

(b) A salvage certificate shall authorize the holder of the certificate to possess, transport but not drive upon a highway, and transfer ownership in a salvage vehicle.

(c) A salvage certificate shall contain the word “salvage” on the face of the certificate and shall be made upon forms prescribed by the director of finance.”

SECTION 2. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§437B- Bond required to work on salvage, wrecked, or dismantled motor vehicles; forfeiture. (a) Any motor vehicle repair dealer desiring to engage in the business of restoring or rebuilding salvaged, wrecked, or dismantled vehicles shall submit to the board a performance bond, with corporate surety satisfactory to the board. The amount of the bond shall be not less than \$25,000 and the condition of the bond shall be the satisfactory rebuilding or restoration of salvaged, wrecked, or dismantled vehicles.

(b) When the board finds that a licensee has wilfully departed from or disregarded accepted practices of workmanship with respect to work performed under section 437B-11(11), the board may, in accordance with chapter 91, order the forfeiture to the State of the performance bond submitted under subsection (a).”

SECTION 3. Section 286-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Rebuilt vehicle” means any vehicle which has been declared a total loss by a police officer or an insurer and has been rebuilt or repaired to operate on public highways. For the purpose of this definition, a vehicle shall not be deemed to have been declared a total loss by an insurer, despite such a

declaration, if there has been no material damage to the vehicle's engine, transmission, or suspension system, and the projected cost of repairing the vehicle exceeds the market value of the vehicle at the time of the incident causing it to be declared a total loss."

SECTION 4. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Any vehicle which has been involved in an accident[, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.] shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's equipment has been damaged so as to render the vehicle unsafe; or
- (2) It is rebuilt or restored."

SECTION 5. Section 286-41, Hawaii Revised Statutes, is amended to read as follows:

"§286-41 Application for registration; full faith and credit to current certificates; this part not applicable to certain equipment. (a) Every owner of a motor vehicle which is to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided, apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof.

(b) Application for the registration of a vehicle shall be made upon the appropriate form furnished by the director of finance and shall contain the name, occupation, and address of the owner and legal owner; and, if the applicant is a member of the United States naval or military forces, the applicant shall give his organization and station. All applications shall also contain a description of the vehicle, including the name of the maker, the type of fuel for the use of which it is adapted (e.g., gasoline, diesel oil, liquefied petroleum gas), the serial or motor number, and the date first sold by the manufacturer or dealer, and such further description of the vehicle as is called for in the form, and such other information as may be required by the director of finance, to establish legal ownership.

(c) If the vehicle to be registered is specially constructed, reconstructed, rebuilt, or an imported vehicle, such fact shall be stated in the application and upon the registration of every imported motor vehicle, which has been registered theretofore in any other state or county, the owner shall surrender to the director of finance his certificates of registration or other evidence of such form of registration as may be in the applicant's possession or control. The director of finance shall grant full faith and credit to the currently valid certificates of title and registration describing such vehicle, the ownership thereof, and any liens

noted thereon, issued by any title state or county in which the vehicle was last registered. The acceptance by the director of finance of a certificate of title or of registration issued by another state or county, as hereinabove provided, in the absence of knowledge that the certificate is forged, fraudulent, or void, shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the director of finance by reason of so accepting the certificate.

(d) The provisions of this part requiring the registration of motor vehicles shall not apply to special mobile equipment nor to implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways."

SECTION 6. Section 286-42, Hawaii Revised Statutes, is amended to read as follows:

"§286-42 County finance director's duties. (a) The county director of finance shall examine and to the best of his ability determine the genuineness and regularity of every registration and transfer of registration of a vehicle as in this part provided, in order that every certificate issued for a vehicle shall contain true statements of the ownership thereof, and to prevent the registration of a vehicle by any person not entitled thereto, and the director of finance may require any applicant to furnish such information, in addition to that contained in the application, as may be necessary to satisfy the director of finance of the truth and regularity of the application.

(b) For the purpose of registering standard makes and body types of new passenger motor vehicles the director of finance may accept the certificate of any licensed motor vehicle dealer certifying to the weight and identification of such vehicle. The director of finance of any county may accept the certificate of the director of finance of any other county as to weight and identification of any such vehicle.

(c) In the event the director of finance is not satisfied as to the ownership of any vehicle sought to be registered, unless the applicant presents satisfactory evidence to the director of finance of the applicant's ownership of the vehicle and as to any liens thereon, the director of finance may accept from the applicant a bond or securities in such form as may be determined by the director of finance in an amount equal to the value of the vehicle. The bond or securities and the deposit thereof shall be conditioned to protect the director of finance and any subsequent purchaser of the vehicle or person acquiring any lien thereon or the successor in interest of any such person against any loss or damage on account of any defect in or undisclosed encumbrance upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person shall have a right of action to recover on any such bond or securities for any breach of the conditions for which the same was deposited. The aggregate

liability of the surety to all such persons shall in no event exceed the amount of the bond and interest thereon, plus a reasonable attorney's fee to be allowed by the court incurred to procure the recovery under the bond. The bond or securities shall (unless suit has been instituted thereon) be returned and surrendered at the end of three years or prior thereto in the event that the vehicle is no longer registered and the currently valid certificate of ownership is surrendered to the director of finance. Any licensed dealer who has filed and has in effect a bond of an amount in excess of the value of any vehicle in question shall not be required to furnish an additional bond under this section.

(d) Whenever the registration of any motor vehicle discloses that it is adapted for the use of a fuel other than gasoline, the director of finance shall inform the director of taxation of such registration, and upon each transfer of any such motor vehicle the director shall be informed thereof.

(e) The county finance director, upon being notified by the designated county department that a vehicle has been inspected and approved as a reconstructed vehicle, shall cause that fact to be shown upon the registration certificate and registration records for that vehicle."

SECTION 7. Section 286-48, Hawaii Revised Statutes, is amended to read as follows:

"§286-48 Certificates of ownership of salvaged motor vehicles. (a) Whenever a motor vehicle subject to registration under this part is sold as salvage[,] or conveyed to an insurance company, in the ordinary course of business or as the result of a total loss insurance settlement[,] where the insurance company receives the certificates of registration and ownership, the purchaser or, if an insurance company[,] its authorized agent, shall within ten days from the purchase, or the settlement of the insurance loss, forward the motor vehicle's endorsed certificate of ownership or other evidence of title, certificate of registration, [and] license plates, and an application for a salvage certificate as provided for in section 286- , to the director of finance. If the certificate of registration or one or both license plates are lost, an affidavit, duly notarized and signed by the party responsible for the compliance of this section stating that he has no knowledge of the location of the certificate of registration or the license plates, shall be filed with the director of finance of the county having jurisdiction over the vehicle. In any event the certificate of ownership or other evidence of title shall be forwarded to the director of finance.

(b) Upon receipt of the certificate of ownership, certificate of registration, license plates, and application for a salvage certificate, the director of finance shall issue a salvage certificate in the name of the purchaser or insurance company.

[(b)] (c) Upon resale of the salvage vehicle the seller or, if the seller is an insurance company[,] its authorized agent, shall transfer the salvage certificate

and issue a bill of sale to the purchaser which shall be on a form prescribed by the director of finance. The seller shall sell the salvage vehicle only to a person licensed pursuant to chapter 437B, sections 289-4, or 445-232, or any person who executes an affidavit which states whether or not the salvage vehicle would be used to construct a rebuilt vehicle as defined in section 286-2 and that if the salvage vehicle is to be rebuilt, that the purchaser will register the rebuilt vehicle as required by this chapter.

[(c)] (d) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the motor vehicle shall not be licensed for such operation, nor shall the ownership thereof be transferred until there is submitted to the director of finance [with the]:

(1) The prescribed bill of sale[, and];

(2) An appropriate application for registration of the rebuilt or restored motor vehicle along with the salvage certificate and a certificate of inspection signed by a [person authorized by the director of finance] registered or certified motor vehicle repair dealer, attesting [to the motor vehicle's mechanical fitness and safety, plus any] that the original recognized vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year were utilized and adhered to; and

(3) Any other document and fee required by the director of finance. The counties may, by ordinance, establish the fee to be charged for the inspection of rebuilt motor vehicles.

(e) Whenever a certificate of registration and certificate of ownership is issued for a motor vehicle with respect to which a salvage certificate has been previously issued, the new certificates shall conform to the requirements of section 286-47 and:

(1) Bear the words "Rebuilt Vehicle"; and

(2) Appear in such a manner as to distinguish them from the certificate of registration and certificate of ownership for motor vehicles other than rebuilt or restored motor vehicles.

[(d)] (f) In the event a total loss insurance settlement between an insurance company and its insured results in the retention of the salvage vehicle by the insured, then in such event, the insurance company or its authorized agent shall, within ten days from the date of settlement, notify the director of finance of such retention by its insured. The notification shall be on a form prescribed by the director of finance."

SECTION 8. Section 437B-11, Hawaii Revised Statutes, is amended to read as follows:

“[]§437B-11[] Prohibited practices. The following acts or omissions related to the repair of motor vehicles shall be grounds for invoking the enforcement procedures of section 437B-12:

- (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading;
- (2) Causing or allowing a customer to sign any work order which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;
- (3) Failing or refusing to give a customer a copy of any document requiring his signature, as soon as the customer signs such document;
- (4) Any other conduct which constitutes fraud;
- (5) Conduct constituting gross negligence;
- (6) Failure to comply with this chapter or regulations adopted pursuant to it;
- (7) Any wilful departure from or disregard of accepted practices or workmanship;
- (8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of a motor vehicle;
- (9) Having repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair dealer, mechanic, or apprentice demonstrates that the customer could not reasonably have been notified;
- (10) Conducting the business of motor vehicle repair in a place other than stated on the registration except that mobile repair facilities may be permitted if the registration so indicates[.];
- (11) Rebuilding or restoring of rebuilt vehicles as defined in section 286-2 in such a manner that it does not conform to the original vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year.”

SECTION 9. Section 289-2, Hawaii Revised Statutes, is amended to read as follows:

“§289-2 Unlicensed person not to engage in business. It shall be unlawful for any person or organization, not duly licensed under this chapter, to engage in the business of:

- (1) Purchasing or selling used motor vehicle parts or accessories; or

- (2) Engaging in the business of wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof; or
- (3) Rebuilding wrecked or dismantled vehicles for the purpose of resale].”

SECTION 10. Section 437B-1, Hawaii Revised Statutes, is amended by amending the definition of “repair of motor vehicles” to read as follows:

““Repair of motor vehicles” means all maintenance of, and modifications and repairs to motor vehicles, including the rebuilding or restoring of rebuilt vehicles as defined in section 286-2, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicles mechanics and apprentices. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.”

SECTION 11. The director of the department of commerce and consumer affairs may utilize the special fund created in section 26-9(m) to implement the sections of this bill relating to chapter 437B.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 14. This Act shall take effect on January 1, 1985.

(Approved June 8, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 277

H.B. NO. 2108-84

A Bill for an Act Relating to Fishing Regulations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 188-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It is unlawful for any person to use nets or traps including bullpen traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

- (1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,
- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh to take aquarium fish in conformance with the conditions of the permit, [and]
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October[.],
- (7) All persons engaged in surround net fishing with scuba, may use nets with mesh of not less than one and one-half inches only to bag and transport the fish captured with legal gear to the shore or the boat, and
- [(7)] (8) [For the purposes of measuring the length of a trap under this section, the] The length of a bullpen trap [described under] shall be subject to section 188-28.5 [shall include and be measured as the length of the material utilized to guide aquatic life into the receptacle or length of the receptacle itself].”

SECTION 2. Section 188-28.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§188-28.5[]] **Bullpen trap; description; prohibitions.** (a) For the purpose of this chapter, a “bullpen trap” [is a contraption which utilizes] has a pen and guide or guides of a length or lengths of net or material[:]

- (1) Normally foreign to the ocean; and
- (2) Which is situated] designed to guide aquatic life into [a porous or nonporous receptacle designed] the pen situated to prevent the escape of some or all of the aquatic life entering the [receptacle;] pen;

whether or not the [length or lengths of material] guide or guides are connected to the [receptacle.] pen.

(b) [If the length or lengths of material utilized in the type of trap described under subsection (a) have mesh intended to entangle aquatic life, the length or lengths shall also be considered a net under this chapter.] It is unlawful for any person to capture or attempt to capture aquatic life with a bullpen trap which total length exceeds seven hundred fifty feet. The total length of a bullpen trap shall include the length of the guide or guides and pen.

(c) It is unlawful for any person engaged in bullpen trap fishing to leave the trap in the same place for a period of more than twelve hours."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1984.)

ACT 278

H.B. NO. 2540-84

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-59, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Disposition of public lands for airline, aircraft, agricultural processing, cattle feed production, marine, and maritime operations may be negotiated without regard to the limitations set forth in subsection (a) [of this section] and section 171-16(c); provided that [such]:

- (1) The disposition encourages competition within the aeronautical, agricultural, and maritime industries; [provided further that such]
- (2) The disposition shall not exceed a maximum term of thirty-five years; provided further that for; and
- (3) The method of disposition of public lands for cattle feed production as set forth in this subsection shall not apply after December 31, 1988.

For the purpose of this subsection "agricultural processing" means the processing of agricultural products, including dairying, grown, [or] raised, or produced in Hawaii."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1984.)

ACT 279

H.B. NO. 2597-84

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 359G-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority may develop, on behalf of the State or in partnership, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning [and], construction standards for subdivisions, development and improvement of land,¹ and the construction of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.
 - (A) The legislative body shall approve or disapprove the project within forty-five days after the authority has submitted the preliminary plans and specifications for the project to the legislative body. If after the forty-fifth day a project is not disapproved, it shall be deemed approved by the legislative body.
 - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.

- (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the projects shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1984.)

Note

1. Underscoring missing.

ACT 280

S.B. NO. 1575-84

A Bill for an Act Relating to Child Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-18, Hawaii Revised Statutes, is amended to read as follows:

"§346-18 License for [day] child care [centers] facilities required. It shall be unlawful to operate, maintain, or conduct a [day] child care [center] facility unless licensed to do so by the department of social services and housing."

SECTION 2. Section 346-19, Hawaii Revised Statutes, is amended to read as follows:

"§346-19 [Day] Child care [centers] facilities defined. A "[day] child care [center]" facility" is defined as a place maintained by any individual, organization, or agency for the purpose of providing care for[a child or] two or more children with or without charging a fee during any part of a twenty-four hour day. The term [day] child care [center] facility includes [any place where

group care is provided for six or more children, and any family home providing care for two to five children.] any family child care home providing care in a private home for two to five children, group child care home providing care in a facility that may be an extended or modified family child care home for six to twelve children, or group child care center providing care in a facility other than a private home. The term "care" as used herein refers to those situations where a person or organization has agreed to assume and has been entrusted with the responsibility for the child's supervision, development, safety, and protection apart from the parent or guardian.

[Nothing in sections 346-18 to 346-25 shall be construed to include an individual person caring for a related child, a neighbor or friend caring for a child or children if the person does not regularly engage in such activity, a kindergarten or school conducted solely for educational purposes or specialized training, or an organization established to conduct athletic or social group functions.]”

SECTION 3. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Exclusions. Nothing in sections 346-18 to 346-25 shall be construed to include:

- (1) An individual person caring for a related child;
- (2) A neighbor or friend caring for a child or children, if the person provides care for less than three hours per day but not more than two times a week;
- (3) A kindergarten, school, or program licensed by another department;
- (4) A program which provides exclusively for a specialized training or skill for children from and including age five to age seventeen, including but not limited to such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;
- (5) A community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for children from and including age five to age seventeen; or
- (6) Other such organizations as the director may choose to exclude.”

SECTION 4. Section 346-20, Hawaii Revised Statutes, is amended to read as follows:

“§346-20 Rules; [and regulations;] minimum standards. The department of social services and housing, after consultation with the department of health, the department of education, and the [fire marshall,] fire chiefs of the respective

counties, shall make, prescribe, and publish such rules [and regulations and minimum standards] in accordance with chapter 91 as are deemed necessary to protect the best interests of minor children and to carry out the purposes of sections 346-18 to 346-25. [The rules and regulations shall have the force and effect of law, and shall be administered by the department of social services and housing.]”

SECTION 5. Section 346-21, Hawaii Revised Statutes, is amended to read as follows:

“§346-21 Licenses and temporary permits. If satisfied that the applicant meets the minimum standards established pursuant to section 346-20, the department of social services and housing shall grant the applicant a license for the operation of a [day] child care [center] facility which license shall be valid for one year unless sooner revoked. Where the activities of the applicant fall within the licensing requirements of the department of education and sections 346-18 to 346-25, a license shall be required from both the department of education and the department of social services and housing. A temporary permit may be issued for a period of six months at the department of social services and housing’s discretion to any applicant who is temporarily unable to conform to all of the minimum standards. Renewal of the temporary permit shall be left to the department of social services and housing’s discretion[.]; provided that the combined period of the initial and subsequently renewed permits shall not exceed twelve months. Licenses and permits shall be conspicuously posted on the licensed premises.”

SECTION 6. Section 346-22, Hawaii Revised Statutes, is amended to read as follows:

“§346-22 Suspension and revocation of licenses and permits; reissuance. Any license or temporary permit issued hereunder may be suspended or revoked by the department of social services and housing after due notice and hearing, provisions for which shall be made in the rules [and regulations]. However, upon a determination by the department that conditions exist which constitute an imminent danger to the health, welfare, or safety of the children cared for, a license or temporary permit may be immediately suspended pending a hearing by the department as herein provided. The department, in its discretion, may reissue a license or temporary permit which has been suspended or revoked upon satisfying itself that minimum standards have been or will be met.”

SECTION 7. Section 346-23, Hawaii Revised Statutes, is amended to read as follows:

“§346-23 Visitation and inspection of [centers.] facilities. The department of social services and housing shall cause the [licensee’s] child care

facility's premises to be visited and inspected as frequently as it deems necessary for the proper operation, sanitation, and safety thereof. The visits and inspections shall be made at least once annually. Every [center] facility licensed hereunder shall be open to visitation and inspection by representatives of the department of social services and housing, the department of education, and the department of health, and by [the fire marshal] designated representatives of the respective county fire departments at all times."

SECTION 8. Section 346-24, Hawaii Revised Statutes, is amended to read as follows:

"§346-24 Records. (a) Every [licensee] child care facility shall keep such records and shall file with the department of social services and housing such reports as the rules [and regulations] require. All records and all information obtained concerning children or their parents or relatives shall be kept confidential by the licensee and by members of any department herein named.

(b) For every child care facility, the department shall maintain records of the current and previous two years of the results of its inspections, notifications to licensees of deficiencies, corrective action taken, complaints that allege violation of its child care facility rules, the results of its investigations, and the resolution of complaints. Notwithstanding any other law to the contrary, such records shall be available for inspection in the manner set forth in section 92-51; provided that with respect to records of family child care homes and group child care homes, sensitive personal information or information provided to the department with the understanding that it would not be publicly divulged shall be deleted or obliterated prior to making the records available to the public. Nothing in this section shall authorize the department to release the names of or any other identifying information on complainants. The department may withhold information on a complaint for which an investigation is being conducted for not more than ten working days following the date of filing of the complaint; provided that if an investigation relates to an alleged criminal offense, no information shall be released until the investigation has been completed and the director has determined that no legal proceeding shall be jeopardized by its release."

SECTION 9. Section 346-25, Hawaii Revised Statutes, is amended to read as follows:

"§346-25 Penalty. Any person violating any provision of sections 346-18 to 346-24 or any rule [or regulation] made pursuant thereto shall be [fined not more than \$200.] guilty of a misdemeanor."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 11. The department of social services and housing shall submit a report to the Legislature at least 20 days prior to the convening of the 1985 Regular Session on the organizations or programs which the department has determined are excluded from the State's child care facility licensing requirement pursuant to Section 3 of this Act. Such report shall identify the organization or program granted an exclusion and the specific reasons therefor.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 281

S.B. NO. 1694-84

A Bill for an Act Relating to Consumer Protection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485-1, Hawaii Revised Statutes, is amended by amending the definition of "investment adviser" to read as follows:

- "(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include (A) a bank, savings institution, or trust company; (B) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (C) a dealer whose performance of these services is solely incidental to the conduct of his business as a dealer and who receives no special compensation for them; (D) a publisher of any bona fide newspaper, news magazine, or business of financial publication of general, regular, and paid circulation; (E) a person whose advice, analyses, or reports relate only to securities exempted by section 485-4(1); (F) a person who has no place of business in this State if (i) his only clients in this State are other investment advisers, dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting

for themselves or as trustees, or (ii) during any period of twelve consecutive months he does not direct business communications into this State in any manner to more than five clients other than those specified in clause (i), whether or not he or any of the persons to whom the communications are directed is then present in this State; [or] (G) a person who is employed by a mutual fund which is registered with the Securities and Exchange Commission; or (H) such other persons not within the intent of this paragraph as the commissioner may by rule or order designate.”

SECTION 2. Section 485-14, Hawaii Revised Statutes, is amended to read as follows:

“§485-14 Registration of dealers, investment advisers, and salesmen. (a)

It is unlawful for any person to transact business in this State as a dealer, investment adviser, or salesman unless registered under this chapter.

(b) Eligibility for registration as a dealer. To be eligible for registration as a dealer an applicant must be of good repute and have had (or if the applicant is a partnership or corporation have at least one partner, officer, or employee who has) at least one year of experience as a full-time security salesman or experience as a security salesman on a part-time basis found by the commissioner of securities to be substantially equivalent thereto, provided that the foregoing experience requirement shall not apply to issuers of securities applying for registration as dealers for the sole purpose of issuing and selling securities issued by them.

(c) Application for registration as a dealer. An application for registration as a dealer in writing shall be filed in the office of the commissioner in such form as the commissioner may prescribe, duly verified by oath, and shall state the principal office of the applicant wherever situated, and the location of the principal office and branch offices in the State, if any, the name and style of doing business, the names, residence, and business of principals, copartners, officers, and directors, specifying as to each his capacity and title, the general plan and character of business, the length of time the dealer has been engaged in business and information as to the time, place, and character of experience as a securities salesman. The commissioner may also require such additional information as to the applicant’s previous history, record, and association as he deems necessary to establish the good repute in business of the applicant. There shall be filed with such application an irrevocable written consent to the service of process upon the commissioner in actions against the dealer in manner and form provided in section 485-12.

(d) Eligibility for registration as an investment adviser. To be eligible for registration under this chapter, an investment adviser shall be of good repute, shall have complied with provisions mandatory of this section, and shall take

and pass an oral or written examination, or both, prescribed by the commissioner, to test the applicant's knowledge of the securities business; provided that an applicant who has evidence of successfully passing an examination required by the Securities and Exchange Commission or by any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 or who was registered as an investment adviser by the Securities and Exchange Commission as of January 1, 1983, shall be exempt from this requirement. Every person required to take such an examination at or before the time of the examination, shall pay to the commissioner a fee of \$100.

(e) Registration of investment advisers. An application for registration, duly verified by oath by the applicant, shall be filed in the office of the commissioner accompanied by (1) an irrevocable written consent to the service of process upon the commissioner in actions against the investment adviser in manner and form provided in section 485-12, (2) the applicant's photograph, and (3) a form of the disclosure statement described in section 485-25(c)(4). Information on the registration statement shall include:

- (1) The name and form of organization under which the investment adviser engages or intends to engage in business; the name of the state or other sovereign power under which the investment adviser is organized; the location of the investment adviser's principal business office and branch offices, if any; the names and addresses of the investment adviser's partners, officers, directors, and persons performing similar functions or, if the investment adviser is an individual, of such individual; and the number of the investment adviser's employees;
- (2) The education, the business affiliations for the past five years, and the present business affiliations of the investment adviser and of the investment adviser's partners, officers, directors, and persons performing similar functions and of any controlling person thereof;
- (3) The nature of the business of the investment adviser, including the manner of giving advice and rendering analyses or reports;
- (4) A balance sheet certified by an independent public accountant and other certified financial statements;
- (5) The nature and scope of the authority of the investment adviser with respect to clients' funds and accounts;
- (6) The basis or bases upon which the investment adviser is compensated;
- (7) Whether the investment adviser, or any person employed by or associated in business with the investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser under section 485-15;

- (8) A statement as to whether the principal business of the investment adviser consists or is to consist of acting as investment adviser; and
- (9) Such other information as to the applicant's previous history, record, and association as the commissioner deems necessary to establish the good repute of the applicant.

The commissioner may use a uniform registration form adopted by the North American Securities Administrators Association, the Securities and Exchange Commission, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934; provided such form encompasses the information required under this section.

If an applicant is currently registered by the United States Securities and Exchange Commission or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, the commissioner may accept a certified copy of the registration application the applicant submitted to obtain such registration in lieu of the application required by this section.

[(d)] (f) Approval, bond. If the commissioner finds that the applicant for registration as a dealer is eligible for such registration, then he shall register the applicant as a dealer upon payment of the fee hereinafter provided and upon such dealer's filing a bond in the sum of \$5,000 running to the State conditioned upon the faithful compliance with this chapter by the dealer and by all salesmen registered by him while acting for him. The bond shall be executed as surety by a surety company authorized to do business in the State, provided[,] that no bond is required of or from any such applicant if the applicant at the time of making his application is a member of any recognized stock or bond exchange which has been in existence for a period of five years prior to April 29, 1931; provided further[,] that no bond is required of a dealer if the aggregate par value of the securities to be sold is less than \$5,000 or in the case of no par value stock, if the price at which the stock is to be offered to the public is less than \$5,000 if the person selling or offering the securities for sale to the public notifies the commissioner in writing of his intention to make the sale and after the sale files with the commissioner a statement of the kind and amount of stock sold and the price received therefor, but where the aggregate par value of the securities or the price at which the stock is to be offered to the public is less than \$5,000 no more than one such sale or offering shall be allowed within a period of one year; provided further[,] that in lieu of the above bond any dealer may deposit and keep deposited with the commissioner cash in the amount of \$5,000 or securities to be approved by the commissioner having a market value at all times of not less than \$5,000 which cash or securities shall be held in trust for the fulfilling of the same terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu thereof of cash or other securities of equal value, or upon the filing of a bond

as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the dealer depositing the same.

(g) Investment adviser's approval; bond, insurance required. If the commissioner finds that the applicant for registration as an investment adviser is eligible for such registration, the commissioner shall register the investment adviser upon a payment of a fee hereinafter provided and upon such investment adviser filing a bond in the sum of \$10,000 with the State as the obligee. The bond requirement shall be \$5,000 if the adviser does not have custody of or discretionary authority over client money, securities or other assets. The bond shall be conditioned upon the faithful compliance with this chapter by the investment adviser. The bond shall be executed as a surety by a surety company authorized to do business in the State. In addition, the investment adviser shall file with the commissioner a certificate of insurance which indicates that such investment adviser's business is insured for errors and omissions for at least \$100,000 per occurrence with a \$200,000 aggregate for those with less than two years experience and a \$500,000 aggregate for those with two or more years of experience for the protection of the investment adviser's client.

[(e)] (h) Eligibility for registration as a salesman. To be eligible for registration under this chapter a salesman shall be of good repute, shall have complied with the provisions mandatory of this section, shall be designated as a salesman by a registered dealer, and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test his knowledge of the securities business. Every person required to take such an examination shall, at or before the time he takes the same, pay a fee as prescribed by the commissioner. No person shall be designated as a salesman by, or shall act as a salesman for, more than one registered dealer.

[(f)] (i) Registration of salesmen. An information statement, containing such information as the commissioner shall prescribe, duly verified by oath by the applicant, shall be filed in the office of the commissioner, together with an appointment of the applicant as a salesman by a registered dealer. If the commissioner finds a salesman designated by any registered dealer to be eligible for registration as a salesman, he shall register the person as a salesman upon the payment of the fee hereinafter provided.

[(g)] (j) Recording; duration; renewal; fee. The name and addresses of all persons found eligible for registration as dealers, investment advisers, or salesmen and all orders with respect thereto shall be recorded in a register of dealers, investment advisers, and salesmen kept in the office of the commissioner which shall be open to public inspection. Except as hereinafter provided, every registration under this section shall expire on December 31 in each odd-numbered year. Applications for renewals shall be made not less than thirty nor more than sixty days before the end of the odd-numbered year. Any applicant

for renewal of a dealer, investment adviser, or salesman license who does not submit his application within the time prescribed by this section shall pay a penalty of one hundred per cent of the applicable renewal fee. Any applicant for renewal of a dealer or investment adviser license who submits his application after December 31 of the odd-numbered year shall be required to reapply as a new dealer[.] or investment adviser. The registration of any investment adviser or salesman may be revoked or terminated prior to its expiration by written notice filed with the commissioner by the registered dealer or registered salesman concerned, and the revocation shall take effect as of the date and time of filing of the notice. Upon revocation or termination of the registration of any salesman, the salesman's certificate of registration shall be surrendered to the commissioner for cancellation. The fee for registration and for each biennial renewal shall be \$50 in the case of dealers and investment advisers and \$10 in the case of salesmen.

[(h)] (k) Changes. Changes in registration occasioned by changes in the personnel of a partnership or in the principals, copartners, officers, or directors of any dealer or investment adviser's business may be made from time to time by written application setting forth the facts with respect to such change.

(l) Announcement of registration application. The commissioner, by rule, may require an applicant for initial registration as a dealer, investment adviser, or salesperson to publish an announcement of the application in one or more newspapers of general circulation in this State.

[(i)] (m) Notice of intent to offer. Every registered dealer who intends to offer any security of any issue registered or to be registered shall notify the commissioner in writing of his intention so to do. The notice shall contain the name of the dealer, shall state the name of the security to be offered for sale, and whenever a dealer has prepared such notice and has forwarded the same by registered mail, postage prepaid, and properly addressed to the commissioner, such dealer, as to the contents of the notice and the filing thereof, is deemed to have complied with the requirements of this subsection.

[(j)] (n) Issuers as dealers. Any issuer of a security required to be registered under this chapter selling such securities (other than in exempt transactions as defined in section 485-6), and any issuer of an exempt security as defined in section 485-4(9) and (10) offering such securities (other than (1) in exempt transactions as defined in section 485-6, or (2) through a dealer registered pursuant to this chapter) shall file with the commissioner a bond or deposit securities or cash in an amount, based on the total capitalization, to be determined by the commissioner in his discretion, which amount, however, shall not be less than \$5,000, nor more than \$25,000, subject also to the same conditions as herein prescribed in the case of dealers, and may appoint salesmen in the manner herein prescribed in the case of dealers.

[(k)] (o) Capital requirement for dealers[.] and investment advisers. The commissioner may by rule require a minimum capital requirement for registered dealers which shall not be less than \$5,000 in the case of dealers and prescribe a ratio between net capital and aggregate indebtedness. The commissioner may by rule require a net worth requirement which shall not be less than \$5,000 for investment advisers."

SECTION 3. Section 485-15, Hawaii Revised Statutes, is amended to read as follows:

"§485-15 [Revocation] Denial, revocation of dealers', investment advisers', and salesmen's registration; suspension during investigation, etc. [Registration] Upon the finding of errors in a registration statement or the filing of complaints by consumers or by any government agency, the commissioner may conduct an investigation of the applicant or registrant and registration under section 485-14 may be refused or any registration granted may be revoked by the commissioner of securities if after a reasonable notice and a hearing the commissioner determines that the applicant or registrant so registered:

- (1) Has violated this chapter or any [regulation] rule made hereunder; [or]
- (2) Has made a material false statement in the application for registration; [or]
- (3) Has been guilty of a fraudulent act in connection with any sale of securities, or has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any such securities or has been or is engaged or is about to engage in any practice or sale of securities which is fraudulent or in violation of law; or
- (4) Has demonstrated his unworthiness to transact the business of dealer, investment adviser, or salesman.

In cases of charges against a salesman notice thereof shall also be given the dealer employing such salesman. Pending the hearing the commissioner may order the suspension of the dealer's, investment adviser's, or salesman's registration; provided the order states the cause for the suspension.

Until the entry of a final order the suspension of the dealer's or investment adviser's registration, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it appears that the order of suspension has been violated after notice.

In the event the commissioner determines to refuse or revoke a registration as hereinabove provided, he shall enter a final order herein with his findings on the register of dealers, investment advisers, and salesmen; and suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all his salesmen.

It shall be sufficient cause for refusal or cancellation of registration in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for refusing or revoking the registration of an individual dealer, investment adviser, or salesman."

SECTION 4. Section 485-16, Hawaii Revised Statutes, is amended to read as follows:

"§485-16 Dealers' and investment advisers' records and reports; commissioner's powers. Every dealer and investment adviser registered under this chapter shall make and keep for a period of three years after the close of the calendar or fiscal year to which they pertain, full and complete records of his business, which records shall be open to inspection by the commissioner of securities and, in addition, shall file with the commissioner such annual or special reports of the condition, financial or other, of the dealer[,] or investment adviser, in such form and detail, as the commissioner shall require. For the purpose of avoiding unnecessary duplication of inspections and examinations, the commissioner may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. If any such dealer or investment adviser fails or refuses to make or keep any such record or to file any such report, the commissioner may subpoena the dealer, investment adviser, or any person having knowledge of the dealer's or investment adviser's affairs to appear and testify or produce documentary evidence, administer oaths, and examine the dealer, investment adviser, or any such person under oath with respect to the affairs of the dealer[,] or investment adviser. The subpoena shall have the same force and effect and shall be served in the same manner as if issued from a court of record. Witness fees and mileage claims shall be allowed the same as for testimony in a court of record. Witness fees, mileage, and actual expenses necessarily incurred in securing the attendance of witnesses and of testimony and the production of documents shall constitute a charge against the dealer[,] or investment adviser, recoverable by action by the State for the use of the persons entitled thereto. If any individual fails to obey the subpoena or obeys the subpoena and refuses to testify when required concerning the matter under investigation, the commissioner shall file his written report thereof and proof of service of his subpoena in the circuit court for the circuit in which the examination is being conducted. Thereupon the court shall forthwith cause the individual to be brought before it to show cause why he should not be held in contempt; and if so held, may punish him as if the failure or refusal related to a subpoena from or testimony in that court."

SECTION 5. Section 485-19, Hawaii Revised Statutes, is amended to read as follows:

"§485-19 Injunctions. Whenever it shall appear to the commissioner of securities either upon complaint or otherwise, that in the issuance, sale, promotion, negotiation, advertising, or distribution of any securities within the State, including any security exempted under section 485-4, and including any transaction exempted under section 485-6, any person, as defined in this chapter:

- (1) Has employed or employs, or is about to employ any device, scheme, or artifice to defraud or for obtaining money or property by means of any false pretense, representation, or promise;
- (2) Or that any such person has made, makes, or attempts to make in the State fictitious or pretended purchases or sales of securities;
- (3) Or has engaged in or engages in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities (A) which is in violation of law, (B) or which is fraudulent, (C) or which has operated or which would operate as a fraud upon the purchaser; any one or all of which devices, schemes, artifices, fictitious or pretended purchases or sales of securities, practices, transactions, and courses of business are declared to be and are hereinafter referred to as fraudulent practices;
- (4) Or that any person is acting as dealer, investment adviser, or salesman within the State without being duly registered as such dealer, investment adviser, or salesman as provided in this chapter;

the commissioner may investigate and whenever he believes from evidence satisfactory to him: that any such person has engaged in, is engaged, or is about to engage in any of the practices or transactions hereinbefore referred to as and declared to be fraudulent practices; or is selling or offering for sale any securities in violation of this chapter or is acting as a dealer, investment adviser, or salesman without being duly registered as provided in this chapter, the commissioner may, in addition to any other remedies, bring suit in the name and on behalf of the State against such person and any other person or persons concerned in or in any way participating in or about to participate in such fraudulent practices or acting in violation of this chapter, to enjoin such person and such other person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter.

In any such court proceedings the commissioner may apply for and on due showing be entitled to have issued the court's subpoena requiring forthwith the appearance of any defendant and his employees, salesmen, or agents and the production of documents, books, and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct or things complained of in the application for injunction. In the suit the

circuit courts sitting without a jury have jurisdiction of the subject matter and a judgment may be entered awarding such injunction as may be proper.”

SECTION 6. Section 485-25, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

- (1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;
- (2) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; [and]
- (3) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change[.];
- (4) That the investment adviser shall disclose to the client in a separate disclosure statement the capacity in which the investment adviser is acting and the compensation to be received in situations where (i) the investment adviser is acting as principal for the investment adviser's own account and knowingly sells any security to or purchases any security from a client for whom he is acting as investment adviser, or, (ii) the investment adviser is acting as broker for a person other than the client and knowingly effects any sale or purchase of securities, real estate, insurance contracts, annuities contracts, or any types of real or personal property for the account of the client; and
- (5) That the investment adviser shall provide the disclosure statement described in section 485-25(c)(4) and obtain the written consent of the client to the transactions described in the disclosure statement prior to the closing of the transactions.

Clause (1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date.

“Assignment”, as used in clause (2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after

admission, will be only a minority of the members and will have only a minority interest in the business.”

SECTION 7. Section 485-25, Hawaii Revised Statutes, is amended by adding subsection (d) to read as follows:

“(d) It is unlawful for any investment adviser to use any scheme, device, or artifice to circumvent or attempt to circumvent the prohibitions or limitations in subsection (c).”

SECTION 8. Section 485-1, Hawaii Revised Statutes, is amended by amending the definition of “security” to read:

- “(12) “Security” means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, variable annuity contract, voting trust certificate, certificate of deposit for a security, certificate of interest in an oil, gas, or mining title or lease, option on commodity futures contracts or, in general, any interest or instrument commonly known as a “security[,]”, or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. “Security” does not include any insurance or endowment policy or fixed annuity contract.”

SECTION 9. Section 485-4, Hawaii Revised Statutes, is amended to read:

“§485-4 Exempt securities. The following securities are exempt from sections 485-8 and 485-25(a)(7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized

- and supervised under the laws of any state or territory or any investment certificate issued by an industrial loan company duly licensed under the industrial loan law of the State of Hawaii;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;
 - (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;
 - (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
 - (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;
 - (8) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;
 - (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
 - (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan;
- (12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act;
- (13) Any security issued by an "investment company" as defined by and registered under the "Investment Company Act of 1940" (15 U.S.C. §80a);
- (14) Any cooperative association membership stock, membership certificates or share, or membership capital, pursuant to section 421C-36, or chapters 421 or 422[.];
- (15) Any variable annuity contract which is an investment contract prepared by a life insurance company designed to offer continuous income through participation in a mutual fund portfolio or a variable annuity contract based upon a separate account which is registered as a management investment company with the Securities and Exchange Commission."

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 12. This Act shall take effect upon its approval, except that SECTION 1 through 7, inclusive, shall take effect on October 1, 1984.

(Approved June 12, 1984.)

ACT 282

S.B. NO. 1918-84

A Bill for an Act Relating to the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

"§26-52 Department heads and executive officers. The salaries of the following state officers shall be as follows:

- (1) [Effective July 1, 1981, the] The salary of the superintendent of education shall be [\$46,750 a year. Effective July 1, 1982, the salary shall be] \$50,490 a year.
- (2) [Effective July 1, 1981, the] The salary of the president of the University of Hawaii shall be [\$49,500 a year. Effective July 1, 1982, the salary shall be \$53,460] set by the board of regents, but shall not exceed \$95,000 a year.
- (3) [Effective July 1, 1981, the] The salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, commerce and consumer affairs, Hawaiian home lands, health, labor and industrial relations, land and natural resources, personnel services, planning and economic development, social services and housing, taxation and transportation shall be [\$46,750 a year. Effective July 1, 1982, their salaries shall be] \$50,490 a year.
- (4) [Effective July 1, 1981, the] The salary of the adjutant general shall be [\$46,750 a year. Effective July 1, 1982, the salary shall be] \$50,490 a year. If the salary is in conflict with the pay and allowance fixed by the tables of the regular army of the United States, the latter shall prevail."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

ACT 283

H.B. NO. 1940-84

A Bill for an Act Relating to the University of Hawaii Research and Training Revolving Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 304-8.1, Hawaii Revised Statutes, is amended to read as follows:

"§304-8.1 Research and training revolving fund. (a) There is established a University of Hawaii research and training revolving fund into which shall be deposited [a maximum of \$1,000,000 annually from indirect overhead sources on account of all university held federal and other research and training contracts and grants.] thirty per cent of the total amount of indirect overhead funds generated by the university for research and training purposes in the prior fiscal year. The board of regents of the University of Hawaii, upon approval of

the governor or the director of finance, if so delegated, is authorized to expend funds deposited in the research and training revolving fund for research and training purposes which may result in additional research and training grants and contracts and for purposes of facilitating research and training at the university. All other receipts beyond the thirty per cent shall immediately be deposited to the credit of the general fund of the State. Except for amounts specified in section 304-8.1(c) for the purpose of providing advanced funding to meet reimbursable costs incurred in connection with federally financed research and training projects, funds unencumbered as of June 30 of each fiscal year shall be deposited to the credit of the general fund of the State.

(b) The University of Hawaii shall prepare and submit an annual report on the status of the research and training revolving fund to the legislature twenty days before the convening of each regular session. The annual report shall include a breakdown of travel expenses.

(c) On July 1, 1984, in addition to the amount specified in subsection (a), and notwithstanding section 304-10 to the contrary, the amount of \$2,500,000 derived from indirect overhead sources on account of all university held federal and other research and training contracts and grants shall be deposited into a separate account of the research and training revolving fund. The board of regents of the University of Hawaii, upon approval of the governor, or the director of finance if so delegated, may expend these funds for the purpose of providing advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. Any reimbursement received as a result of providing advance funding shall be deposited into the research and training revolving fund to be used for the purpose of meeting reimbursable costs incurred in connection with federally financed projects; provided that the sum of the amounts held in the research and training revolving fund for the purpose of this subsection and the amounts advanced pursuant to this subsection shall not exceed in the aggregate \$2,500,000 at any time."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-33, Hawaii Revised Statutes, is amended to read as follows:

“§386-33 Subsequent injuries which would increase disability. (a) Where prior to any injury an employee suffers from a previous permanent partial disability already existing prior to the injury for which compensation is claimed, and the disability resulting from the injury combines with the previous disability, whether the previous permanent partial disability was incurred during past or present periods of employment, to result in a greater permanent partial disability or in permanent total disability or in death then weekly benefits shall be paid as follows:

- (1) In cases where the disability resulting from the injury combines with the previous disability to result in greater permanent partial disability the employer shall pay the employee compensation for the employee's actual permanent partial disability but for not more than one hundred four weeks; the balance if any of compensation payable to the employee for the employee's actual permanent partial disability shall thereafter be paid out of the special compensation fund;
- (2) In cases where the disability resulting from the injury combines with the previous disability to result in permanent total disability the employer shall pay the employee for one hundred four weeks and thereafter compensation for permanent total disability shall be paid out of the special compensation fund;
- (3) In cases where the disability resulting from the injury combines with the previous disability to result in death the employer shall pay weekly benefits in accordance with sections 386-41 and 386-43 but for not more than one hundred four weeks; the balance of compensation payable under those sections shall thereafter be paid out of the special compensation fund.

(b) Subsection (a) to the contrary notwithstanding, where the director or the appellate board determines that the previous permanent partial disability amounted to less than that necessary to support an award of thirty-two weeks of compensation for permanent partial disability there shall be no liability on the special compensation fund, and in any such case the employer shall pay the employee or the employee's dependents full compensation for the employee's actual permanent partial or total disability or death.

(c) Subsections (a) and (b) shall apply in all cases where the work injury occurs on or after May 15, 1982 and combines with a previous disability to result in a greater permanent partial disability or in permanent total disability or in death.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

ACT 285

H.B. NO. 1640-84

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1983 to June 30, 1985.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriation Act of 1984.

SECTION 2. This Act amends Act 301, Session Laws of Hawaii, 1983.

SECTION 3. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Section 3 of Act 301, Session Laws of Hawaii, 1983, for the following programs are amended to read:

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Program Appropriations

Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
A. ECONOMIC DEVELOPMENT						
COMMERCE AND INDUSTRY						
1.	Operating	PED102	PED	15.00 * 800,235 A 3,410,000 W	18.00 * 856,416 A 3,555,000 W	1,656,651 A 6,965,000 W
TRADE AND FINANCE						
2.	International Trade & Economic Cooperati	PED105	PED	6.00 * 246,933 A	6.00 * 214,046 A	460,979 A
Operating						
3.	Foreign Trade Zone Services	PED107	PED	25.00 * 1,118,215 B	24.00 * 1,132,073 B	2,250,288 B
Operating						
TOURISM						
4.	Operating	PED113	PED	3.00 * 3,512,914 A 1,250,000 R 95,000 X	3.00 * 4,158,829 A 1,500,000 R 95,000 X	7,671,743 A 2,750,000 R 190,000 X
Investment: Capital						
			PED	C 3,840,000 C S 960,000 S		3,840,000 C 960,000 S
AGRICULTURE						
5.	Economic Assistance For Agriculture	AGR101				
	Financial Assistance For Agriculture					

6.	Operating	Price & Production Controls For Dairy Pr	AGR	A	250,000 A	250,000 A
				15.00 *	15.00 *	
				647,300 B	647,683 B	1,294,983 B
7.	Operating	Productvty Imprvmnt & Mgt Asstnce For Agr Plant Pest and Disease Control Plant Quarantine	AGR	2,000,000 W	2,000,000 W	4,000,000 W
				8.00 *	8.00 *	
				190,999 A	183,907 A	374,906 A
8.	Operating	Plant Pest Control	AGR	41.91 *	41.91 *	
				984,499 A	966,980 A	1,951,479 A
				630,795 U	630,961 U	1,261,756 U
9.	Operating	Investment: Capital	AGR	29.59 *	29.59 *	
				895,002 A	1,012,429 A	1,907,431 A
				460,000 C	C	460,000 C
10.	Operating	Animal Pest and Disease Control Animal Quarantine	AGR	39.00 *	39.00 *	
				1,164,658 A	1,155,355 A	2,320,013 A
				64,131 U	64,131 U	128,262 U
11.	Operating	Investment: Capital	AGS	435,000 C	C	435,000 C
				20.50 *	20.50 *	
				700,949 A	724,425 A	1,425,374 A
12.	Operating	Animal Disease Control	AGR	35,082 T	36,297 T	71,379 T
11.	Operating	Product Development and Marketing For Ag Forestry — Products Development	LNR	30.00 *	30.00 *	
				860,381 A	825,482 A	1,685,863 A
				77,654 N	77,654 N	155,308 N
12.	Operating	Distribution Systems Improvement For Agr	LNR			

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Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985-86 F	
	Operating		AGR	38.00 *	38.00 *		
				1,353,877 A	1,584,838 A		2,938,715 A
			AGR	140,305 B	148,161 B		288,466 B
			AGR	36,328 N	38,388 N		74,716 N
			AGR	200,000 R		R	200,000 R
13.	General Support For Agr Data Collection For Agr	AGR189		12.00 *	12.00 *		
	Operating		AGR	350,088 A	364,174 A		714,262 A
14.	General Administration For Agr	AGR192		32.00 *	32.00 *		
	Operating		AGR	931,931 A	946,290 A		1,878,221 A
	Investment: Capital		AGS	3,009,000 C	4,175,000 C		7,184,000 C
15.	FISHERIES & AQUACULTURE Financial Assistance For Aquaculture	AGR102					
	Operating		AGR	200,000 W	25,000 W		225,000 W
16.	Commercial Fishery and Aquaculture	LNR153					
	Operating		LNR	11.00 *	11.00 *		
			LNR	1,544,478 A	1,616,378 A		3,160,856 A
				159,050 N	159,050 N		318,100 N
17.	ENERGY DEVELOPMENT AND MANAGEMENT	PED120					

	WATER DEVELOPMENT & IRRIGATION SERVICES	LNR141			
18.	Operating Investment: Capital	LNR LNR LNR	19.00 * 528,889 A 615,700 B 2,310,000 C	18.00 * 567,183 A 551,599 B 2,045,000 C	1,096,072 A 1,167,299 B 4,355,000 C
	ECON PLANNING & COORD FOR ECON DEVELOPME				
19.	Econ Planning & Research For Econ Devpmnt	PED130			
	Operating	PED	12.00 * 426,390 A	15.00 * 598,898 A	1,025,288 A
20.	General Support For Marine Programs	PED109			
	Operating	PED	4.00 * 580,662 A	4.00 * 585,991 A	1,166,653 A
21.	General Support For Economic Development	PED142			
	Operating Investment: Capital	PED PED	24.00 * 766,914 A E	24.00 * 782,039 A 33,260,000 E	1,548,953 A 33,260,000 E
	B. EMPLOYMENT				
	FULL OPPORTUNITY TO WORK				
1.	Placement Services	LBR111			
	Operating	LBR	3.00 * 57,918 A 150.25 *	3.00 * 57,861 A 150.25 *	115,779 A
		LBR	6,768,828 N	6,950,966 N	13,719,794 N
2.	Apprenticeship & Other Training Programs	LBR123			
	Operating	LBR	7.00 * 175,387 A	7.00 * 168,812 A	344,199 A

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Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985 F	
3.	Employment and Training Programs Operating	LBR131	LBR	287,627 A 15.00 *	297,261 A 15.00 *	584,888 A	
			LBR	3,313,256 N	3,313,256 N	6,626,512 N	
4.	Commission On Manpower and Full Employme Operating	LBR135	LBR LBR	6.00 * 127,946 A 158,327 N	6.00 * 137,336 A 137,547 N	265,282 A 295,874 N	
5.	Occupational Safety & Health Operating	LBR143	LBR LBR	50.50 * 1,232,992 A 29.50 *	50.50 * 1,241,774 A 29.50 *	2,474,766 A 1,987,267 N	
6.	FAIR AND JUST EMPLOYMENT PRACTICES Wage Standards & Fair Employment Practic Operating	LBR152	LBR LBR	29.00 * 744,358 A 43,566 N	29.00 * 749,319 A 43,566 N	1,493,677 A 87,132 N	
7.	LABOR-MANAGEMENT RELATIONS Public Employment Operating	LBR161	LBR	3.00 * 443,467 A	3.00 * 451,340 A	894,807 A	

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Item No.	Program	Program ID.	Expending Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating		LBR	319,623 A	313,775 A	633,398 A
C. TRANSPORTATION FACILITIES						
AIR TRANSPORTATION FACILITIES AND SVCS						
1.	HIA Facilities & Svcs	TRN102				
	Operating		TRN	444.00 *	444.00 *	
	Investment: Capital		TRN	27,056,313 B	24,883,472 B	51,939,785 B
			TRN	26,260,000 B	31,630,000 B	57,890,000 B
			TRN	25,465,000 E	26,870,000 E	52,335,000 E
			TRN	100,000 N	2,100,000 N	2,200,000 N
2.	General Aviation Facilities and Services	TRN104				
	Operating		TRN	2.00 *	2.00 *	
				567,441 B	153,939 B	721,380 B
3.	General Lyman Field Facilities & Service	TRN111				
	Operating		TRN	76.00 *	76.00 *	
				3,604,519 B	3,565,044 B	7,169,563 B
4.	Ke-Ahole Airport Facilities and Services	TRN114				
	Operating		TRN	54.00 *	54.00 *	
	Investment: Capital		TRN	2,493,219 B	2,441,597 B	4,934,816 B
			TRN	2,985,000 E	2,100,000 E	5,085,000 E
			TRN	200,000 N	N	200,000 N
5.	Waimea-Kohala Airport Facilities & Servi	TRN116				

6.	Operating Upolu Airport Facilities & Services Operating	TRN118	TRN	3.00 *	3.00 *	680,647 B
				532,552 B	148,095 B	
7.	Kahului Airport Facilities and Services	TRN131	TRN	37,180 B	13,530 B	50,710 B
	Operating Investment: Capital		TRN	68.00 *	68.00 *	
			TRN	3,294,211 B	3,142,195 B	6,436,406 B
			TRN	10,350,000 E	33,182,000 E	43,532,000 E
			TRN	100,000 N	3,000,000 N	3,100,000 N
8.	Hana Airport Facilities and Services	TRN133	TRN	1.00 *	1.00 *	
	Operating			151,349 B	41,296 B	192,645 B
9.	Molokai Airport Facilities and Services	TRN141	TRN	7.00 *	7.00 *	
	Operating Investment: Capital		TRN	887,057 B	342,958 B	1,230,015 B
			TRN	440,000 E	375,000 E	815,000 E
10.	Kalaupapa Airport Facilities and Service	TRN143	TRN	1.00 *	1.00 *	
	Operating			75,723 B	25,222 B	100,945 B
11.	Lanai Airport Facilities and Services	TRN151	TRN	3.00 *	3.00 *	
	Operating			117,378 B	208,410 B	325,788 B
12.	Lihue Airport Facilities and Services	TRN161	TRN	57.00 *	57.00 *	
	Operating Investment: Capital		TRN	2,422,516 B	2,366,178 B	4,788,694 B
			TRN	25,925,000 E	25,925,000 E	25,925,000 E
			TRN	100,000 N	100,000 N	100,000 N
13.	Port Allen Airport Facilities and Service	TRN163	TRN	750 B	797 B	1,547 B
	Operating					
14.	Air Transportation Facilities & Svcs Sup	TRN195		61.00 *	61.00 *	

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Item No.	Program	Program ID.	Expending Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating Investment: Capital		TRN	52,616,159 B	58,560,866 B	111,177,025 B
			TRN	300,000 B	150,000 B	450,000 B
			TRN	9,940,000 E	E	9,940,000 E
			TRN	100,000 N	N	100,000 N
WATER TRANSPORTATION FACILITIES AND SERV						
15.	Honolulu Harbor Facilities and Services	TRN301		129.00 *	129.00 *	
	Operating Investment: Capital		TRN	7,230,888 B	7,294,749 B	14,525,637 B
			TRN	95,000 B	1,823,000 B	1,918,000 B
			TRN	2,564,000 E	3,472,000 E	6,036,000 E
16.	Barbers Point Harbor Facilities and Serv Investment: Capital	TRN303	TRN	B	250,000 B	250,000 B
17.	Kewalo Basin Facilities and Services	TRN305		3.00 *	3.00 *	
	Operating Investment: Capital		TRN	368,624 B	375,478 B	744,102 B
			TRN	C	4,750,000 C	4,750,000 C
18.	Hilo Harbor Facilities and Services	TRN311		10.00 *	10.00 *	
	Operating Investment: Capital		TRN	794,932 B	829,511 B	1,624,443 B
			TRN	32,000 E	320,000 E	352,000 E
19.	Kawaihae Harbor Facilities and Services	TRN313				

20.	Operating		TRN	5.00 *	5.00 *	666,988 B
	Kahului Harbor Facilities and Services	TRN331		327,405 B	339,583 B	
	Operating Investment: Capital		TRN	12.00 *	12.00 *	
			TRN	763,217 B	742,459 B	1,505,676 B
				1,972,000 E	E	1,972,000 E
21.	Operating		TRN	1.00 *	1.00 *	
	Kaunakakai Harbor Facilities and Service	TRN341		97,839 B	103,518 B	201,357 B
	Operating Investment: Capital		TRN	593,000 E	E	593,000 E
22.	Operating		TRN	11.00 *	11.00 *	
	Nawiliwili Harbor Facilities and Service	TRN361		550,681 B	527,638 B	1,078,319 B
	Operating Investment: Capital		TRN	145,000 B	B	145,000 B
23.	Operating		TRN	1.00 *	1.00 *	
	Port Allen Harbor Facilities and Service	TRN363		81,149 B	82,827 B	163,976 B
24.	Operating		TRN	48.00 *	48.00 *	
	Water Transportation Fac & Svcs Support	TRN395		13,790,230 B	15,628,382 B	29,418,612 B
	Operating Investment: Capital		TRN	205,000 B	468,000 B	673,000 B
			TRN	310,000 E	E	310,000 E
LAND TRANSPORTATION FACILITIES AND SERVI						
25.	Operating		TRN	212.00 *	212.00 *	
	Oahu Highways and Services	TRN501		13,099,046 B	12,145,437 B	25,244,483 B
	Operating Investment: Capital		TRN	10,383,000 D	16,119,000 D	26,502,000 D
			TRN	70,008,000 J	103,536,000 J	173,544,000 J
			TRN	K	2,605,000 K	2,605,000 K
26.	Operating		TRN	106.00 *	106.00 *	
	Hawaii Highways and Services	TRN511				

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Item No.	Program	Program ID.	Expendig Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985-86 F	
27.	Operating Investment: Capital	TRN531	TRN	3,797,179 B	4,308,249 B	8,105,428 B	
			TRN		547,000 D	547,000 D	
			TRN		165,000 N	165,000 N	
28.	Operating Investment: Capital	TRN541	TRN	53.00 *	53.00 *		
			TRN	1,791,637 B	2,298,756 B	4,090,393 B	
			TRN		4,452,000 D	4,452,000 D	
29.	Operating Investment: Capital	TRN551	TRN	12.00 *	12.00 *		
			TRN	371,949 B	438,717 B	810,666 B	
			TRN		520,000 D	520,000 D	
30.	Operating Investment: Capital	TRN561	TRN		1,215,000 L	1,215,000 L	
			TRN	3.00 *	3.00 *		
			TRN	76,760 B	137,472 B	214,232 B	
31.	Operating Investment: Capital	TRN571	TRN	41.00 *	41.00 *		
			TRN	1,599,189 B	1,938,840 B	3,538,029 B	
			TRN		416,000 D	416,000 D	
32.	Operating Investment: Capital	TRN581	TRN		827,000 N	827,000 N	
			TRN				
			TRN				

31.	Land Transportation Fac & Svcs Support	TRN595							
	Operating		TRN	46.00 *	46.00 *	27,030,924 B	53,404,749 B		
	Investment: Capital		TRN	26,373,825 B	26,373,825 B	280,000 B	770,000 B		
			TRN	490,000 B	490,000 B	675,000 D	675,000 D		
			TRN	900,000 N	900,000 N	2,044,000 N	2,944,000 N		
32.	Safety Administration of Land Transporta	TRN597							
	Operating		TRN	17.50 *	17.50 *	540,832 B	1,078,020 B		
			TRN	537,188 B	537,188 B	4.50 *	4.50 *		
			TRN	119,825 N	119,825 N	119,933 N	239,758 N		
33.	Overall Program Support for Trans Fac &	TRN995							
	Operating		TRN	84.00 *	84.00 *	3,634,402 B	7,285,305 B		
			TRN	3,650,903 B	3,650,903 B				
D. ENVIRONMENTAL PROTECTION									
1.	POLLUTION CONTROL								
	Solids, Liquids, Gases, and Noise	HTH840							
	Operating		HTH	45.50 *	45.50 *	1,071,413 A	2,140,916 A		
			HTH	1,069,503 A	1,069,503 A	12.00 *	12.00 *		
	Investment: Capital		HTH	1,253,317 N	1,253,317 N	1,205,489 N	2,458,806 N		
			HTH	2,519,000 C	2,519,000 C	2,519,000 C	5,038,000 C		
2.	Pesticides	AGR846							
	Operating		AGR	9.50 *	9.50 *	287,277 A	509,993 A		
			AGR	222,716 A	222,716 A				
3.	PRESERVATION AND ENHANCEMENT								
	Aquatic Resources	LNR401							
	Operating		LNR	16.00 *	16.00 *	355,265 A	706,904 A		
			LNR	351,639 A	351,639 A	49,668 N	99,047 N		
			LNR	49,379 N	49,379 N				
4.	Forests and Wildlife Resources	LNR402							
	Operating		LNR	49.00 *	49.00 *	1,222,035 A	2,457,160 A		
			LNR	1,235,125 A	1,235,125 A				

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Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985-86 F	
5.	Investment: Capital		LNR	253,600 N	253,600 N	507,200 N	
	Mineral Resources	LNR403	LNR	X	80,200 X	80,200 X	
			LNR	25,000 C	40,000 C	65,000 C	
6.	Operating		LNR	2.00 *	2.00 *	126,925 A	
	Water Resources	LNR404		48,535 A	78,390 A		
	Operating Investment: Capital		LNR	13.00 *	13.00 *		
7.	Conservation & Resources Enforcement	LNR405	LNR	876,889 A	912,334 A	1,789,223 A	
			LNR	C	100,000 C	100,000 C	
	Operating		LNR	68.00 *	68.00 *	3,382,007 A	
8.	Coastal Areas	TRN903	LNR	1,678,738 A	1,703,269 A	39,459 N	
	Operating Investment: Capital		LNR	19,545 N	19,914 N		
			TRN	12,600 A	13,480 A	26,080 A	
9.	GENERAL SUPPORT FOR NAT PHYS ENVIRON- MENT		TRN	C	185,000 C	185,000 C	
	Policy Dvlpment, Coord & Anlys For Nat P	HTH850					
	Operating		HTH	11.00 *	11.00 *	627,140 A	
				309,163 A	317,977 A		

10.	LNR—Natural Physical Environment Operating	LNR906	LNR	31.50 *	31.50 *	948,799 A 22,785 N	1,898,109 A 44,492 N
11.	HTH—Natural Physical Environment Operating	HTH849	HTH	8.00 *	8.00 *	545,941 A 3.00 *	1,120,063 A 410,255 N
E. HEALTH							
PHYSICAL HEALTH							
1.	Communicable Diseases Tuberculosis Operating	HTH101	HTH	44.00 *	43.00 *	1,245,285 A 40,000 N	2,440,887 A 80,424 N
2.	Hansen's Disease Operating	HTH111	HTH	77.00 *	77.00 *	3,075,254 A 150,000 B	6,179,154 A 305,000 B
3.	Venereal Disease Operating	HTH121	HTH	10.00 *	10.00 *	343,578 A 4.00 *	685,401 A 375,527 N
4.	Other Communicable Diseases Operating	HTH131	HTH	9.00 *	9.00 *	385,645 A 1.00 *	760,344 A 182,774 N
5.	Supporting Services For Commun Diseases Operating	HTH139	HTH	5.00 *	5.00 *	164,982 A 205,138 A	370,120 A

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Item No.	Program	Program ID.	Expanding Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
6.	Dental Diseases	HTH141	HTH	46.20 *	46.20 *	1,846,926 A
	Operating			932,304 A	914,622 A	
7.	Chronic Diseases	HTH151	HTH	5.00 *	5.00 *	1,673,362 A
	Operating			841,071 A	832,291 A	
8.	Nutrition Services	HTH160	HTH	7.75 *	7.75 *	350,154 A
	Operating			175,065 A	175,089 A	
9.	Emergency Medical Services	HTH170	HTH	7.00 *	7.00 *	5,700,175 N
	Operating			2,791,030 N	2,909,145 N	
10.	Family Planning	HTH185	HTH	6.00 *	6.00 *	25,961,246 A
	Operating			12,621,044 A	13,340,202 A	
				271,793 N	271,793 N	543,586 N
				5.00 *	5.00 *	740,527 A
				150,445 A	590,082 A	
				5.00 *	5.00 *	1,454,752 N
				727,376 N	727,376 N	

11.	School Health Services	HTH191	HTH	215.80 *	216.45 *	4,585,761 A	4,528,680 A	9,111,986 A
	Operating							
12.	Health Care Services	HTH801	HTH	43.00 *	43.00 *	2,064,777 A	2,216,190 A	4,280,967 A
	Operating					46.00 *	46.00 *	
			HTH	1,747,399 N	1,740,213 N			3,487,612 N
13.	HOSPITAL CARE Hilo Hospital	HTH211	HTH	337,311 A	268,092 A	541.20 *	541.20 *	605,403 A
	Operating		HTH	17,007,456 B	17,306,329 B			34,313,785 B
14.	Honokaa Hospital	HTH212	HTH	427,822 A	494,524 A	46.00 *	46.00 *	922,346 A
	Operating		HTH	1,175,715 B	1,170,458 B			2,346,173 B
15.	Ka'u Hospital	HTH213	HTH	540,363 A	571,533 A	32.00 *	32.00 *	1,111,896 A
	Operating		HTH	492,975 B	472,504 B			965,479 B
16.	Kohala Hospital	HTH214	HTH	572,771 A	593,658 A	36.50 *	36.50 *	1,166,429 A
	Operating		HTH	634,102 B	626,940 B			1,261,042 B
17.	Kona Hospital	HTH215	HTH	1,756,820 A	1,848,461 A	188.00 *	188.00 *	3,605,281 A
	Operating		HTH	4,562,791 B	4,489,875 B			9,052,666 B
18.	Maui Memorial Hospital	HTH221	HTH	716,495 A	696,111 A	420.00 *	420.00 *	1,412,606 A
	Operating		HTH	14,934,052 B	15,123,210 B			30,057,262 B

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Item No.	Program	Program ID.	Expanding Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
19.	Hana Medical Center Operating	HTH222	HTH	379,246 A 7.00 *	334,323 A 7.00 *	713,569 A
			HTH	144,382 B	98,615 B	242,997 B
20.	Kula Hospital Operating	HTH223	HTH	1,029,268 A 177.00 *	1,029,759 A 177.00 *	2,059,027 A
			HTH	3,578,091 B	3,587,353 B	7,165,444 B
21.	Lanai Hospital Operating	HTH224	HTH	60,242 A 21.00 *	63,739 A 21.00 *	123,981 A
			HTH	639,710 B	618,267 B	1,257,977 B
22.	Kauai Veterans Memorial Hospital Operating	HTH231	HTH	1,421,242 A 138.00 *	1,346,485 A 138.00 *	2,767,727 A
			HTH	3,305,465 B	3,283,339 B	6,588,804 B
23.	Samuel Mahelona Memorial Hospital Operating	HTH232	HTH	893,038 A 146.00 *	905,991 A 146.00 *	1,799,029 A
			HTH	2,962,319 B	2,943,724 B	5,906,043 B
24.	Maluhia Hospital	HTH241				

25.	Operating Leahi Hospital Operating	HTH242	HTH	527,652 A	469,891 A	997,543 A
			HTH	182.00 *	182.00 *	
				4,599,178 B	4,622,410 B	9,221,588 B
			HTH	2,301,464 A	2,436,120 A	4,737,584 A
				295.00 *	295.00 *	
			HTH	6,117,500 B	6,066,994 B	12,184,494 B
			AGS	C	6,139,000 C	6,139,000 C
			HTH	331.00 *	321.50 *	
				10,056,354 A	12,747,641 A	22,803,995 A
				3.00 *	3.00 *	
			HTH	1,943,796 N	2,218,155 N	4,161,951 N
			HTH	404.00 *	402.00 *	
				8,722,771 A	8,670,877 A	17,393,648 A
			AGS	C	1,271,000 C	1,271,000 C
			HTH	34.50 *	33.50 *	
				964,495 A	990,517 A	1,955,012 A
				1.00 *	1.00 *	
			HTH	163,984 N	148,845 N	312,829 N
			HTH	52.85 *	56.85 *	
				2,137,884 A	2,559,668 A	4,697,552 A
			HTH	246,902 N	249,424 N	496,326 N
			HTH	51.00 *	55.00 *	
				1,864,513 A	3,193,174 A	5,057,687 A

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				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985 F	
32.	Operating		HTH	566.00 *	546.00 *		
			HTH	11,391,040 A	10,905,748 A		22,296,788 A
			HTH	78,189 N	85,226 N		163,415 N
	Investment: Capital		HTH	7,448,107 X	8,328,101 X		15,776,208 X
			AGS	C	173,000 C		173,000 C
COMMUNITY HEALTH SERVICES							
33.	Vector Control	HTH601					
			HTH	86.00 *	86.00 *		
	Operating		HTH	1,702,283 A	1,658,365 A		3,360,648 A
34.	Sanitation & Substance Control	HTH611					
			HTH	2.00 *	2.00 *		
	Operating		HTH	37,152 X	37,327 X		74,479 X
35.	Drinking Water Quality	HTH621					
			HTH	85.50 *	85.50 *		
	Operating		HTH	2,031,752 A	1,937,864 A		3,969,616 A
36.	Medical Facilities-Stds, Inspection, Licens	HTH701					
			HTH	3.00 *	3.00 *		
	Operating		HTH	75,947 A	75,947 A		151,894 A
37.							
			HTH	1.00 *	1.00 *		
			HTH	381,273 N	367,679 N		748,952 N
38.							
			HTH	9.00 *	9.00 *		
	Operating		HTH	228,531 A	230,695 A		459,226 A
				6.00 *	6.00 *		

	HTH	200,936 N	203,629 N	404,565 N
OVERALL PROGRAM SUPPORT				
36.	HTH901 Laboratory Services			
	Operating	54.50 *	54.50 *	
		1,430,032 A	1,322,393 A	2,752,425 A
37.	HTH902 Public Health Nursing Services			
	Operating	139.00 *	139.00 *	
		3,401,895 A	3,379,388 A	6,781,283 A
		4.00 *	4.00 *	
	HTH	19,249 B	19,249 B	38,498 B
	HTH	126,564 N	126,564 N	253,128 N
38.	HTH903 Records, Data Collection and Research			
	Operating	36.00 *	36.00 *	
		962,379 A	914,124 A	1,876,503 A
39.	HTH908 Health Education			
	Operating	17.00 *	17.00 *	
		647,835 A	714,482 A	1,362,317 A
		261,449 N	261,449 N	522,898 N
40.	HTH906 Comprehensive Health Planning			
	Operating	6.00 *	6.00 *	
		264,936 A	189,936 A	454,872 A
		11.50 *	11.50 *	
		513,728 N	513,728 N	1,027,456 N
41.	HTH907 General Administration			
	Operating	122.00 *	122.00 *	
		3,418,177 A	3,545,630 A	6,963,807 A
		15.00 *	15.00 *	
		1,075,856 B	1,114,783 B	2,190,639 B
		5.50 *	5.50 *	
		433,021 N	434,598 N	867,619 N
42.	SUB601 Private Hospitals & Medical Services			
	Operating	581,620 A	710,501 A	1,292,121 A

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Item No.	Program	Program ID.	Expending Agency	Appropriations		
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F. SOCIAL SERVICES						
1.	SERVICES TO INDIVIDUALS AND FAMILIES	SOC111				
	Operating		SOC	88.99 *	87.19 *	
				5,692,042 A	5,873,242 A	11,565,284 A
				199.01 *	194.81 *	
			SOC	11,626,463 N	12,571,627 N	24,198,090 N
			SOC	128,880 U	128,880 U	257,760 U
ASSURED STANDARD OF LIVING						
Monetary Assistance for General Needs						
2.	Payments to Assist Families with Depndnt Child	SOC201				
	Operating		SOC	44,445,715 A	42,424,653 A	86,870,368 A
			SOC	48,771,434 N	47,863,290 N	96,634,724 N
3.	Payments to Assist the Aged, Blind & Disa	SOC202				
	Operating		SOC	6,709,476 A	6,414,290 A	13,123,766 A
			SOC	335,000 N	16,000 N	351,000 N
4.	Paymnts to Assist in Child Welfr Foster Care	SOC203				
	Operating		SOC	1,806,306 A	1,936,067 A	3,742,373 A
			SOC	72,375 N	77,436 N	149,811 N
5.	Other General Assistance Payments	SOC204				
	Operating		SOC	18,686,314 A	19,714,305 A	38,400,619 A
			SOC	3,050,000 N	2,740,000 N	5,790,000 N

6.	Housing Assistance Rental Housing Augmentation and Assistan	SOC220	Operating	9.00 *	9.00 *	2,756,109 A
				1,297,094 A	1,459,015 A	
				26.50 *	26.50 *	
				1,671,354 B	1,754,544 B	3,425,898 B
				183.00 *	183.00 *	
				16,773,332 N	17,647,736 N	34,421,068 N
7.	Private Housing Development & Ownership	SOC225	Operating	17.00 *	17.00 *	
	Investment: Capital			1,582,156 B	1,602,523 B	3,184,679 B
				C	1,130,000 C	1,130,000 C
8.	Broadened Homesite Ownership	SOC223	Operating	1.00 *	1.00 *	845,329 B
				413,520 B	431,809 B	
9.	Teacher Housing	SOC807	Operating	1.50 *	1.50 *	495,638 B
				241,828 B	253,810 B	
10.	Housing Assistance Administration	SOC229	Operating	14.00 *	14.00 *	1,864,388 B
				921,869 B	942,519 B	
				14.00 *	14.00 *	
				668,726 N	681,931 N	1,350,657 N
11.	Health Care Payments	SOC230	Operating	103,801,937 A	101,979,588 A	205,781,525 A
				79,067,080 N	78,457,024 N	157,524,104 N
				S	65,990 S	65,990 S
				7,448,107 U	8,328,101 U	15,776,208 U
12.	Veterans Cemeteries and Burial Payments	SUB806	Operating	36,250 A	36,250 A	72,500 A

GENERAL SUPPORT FOR ASSURED STD OF
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State of Hawaii		Program Appropriations				
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13.	Eligibility Determination Operating	SOC236	SOC	358.68 * 8,284,058 A 276.32 *	358.68 * 7,215,620 A 276.32 *	15,499,678 A
14.	Disability Determination Operating	SOC238	SOC	51.00 * 1,755,828 N	51.00 * 1,825,643 N	3,581,471 N
15.	SERVICES TO NATIVE HAWAIIANS Plung, Devpmt and Mgt for Hawn Homestd L Operating Investment: Capital	HHL602	HHL HHL	44.00 * 1,479,952 B 840,000 C	44.00 * 1,559,174 B 3,120,000 C	3,039,126 B 3,960,000 C
16.	General Support for Native Hawaiians Operating	HHL625	HHL	24.00 * 818,163 B	24.00 * 830,391 B	1,648,554 B
17.	OVERALL PROGRAM SUPPORT FOR SOCIAL SERVI Progressive Neighborhoods Program Operating	GOV859	GOV GOV	5.00 * 743,745 A 200,000 N	5.00 * 807,048 A 700,000 N	1,550,793 A 900,000 N

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Item No.	Program	Program ID.	Expending Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
1.	Instruction	EDN105				
	Regular Instruction Program			6,180.50 *	6,239.50 *	
	Operating		EDN	162,492,977 A	158,397,375 A	320,890,352 A
	Investment: Capital		EDN AGS	11,357,539 N 20,977,000 C	16,104,487 N 20,109,000 C	27,462,026 N 41,086,000 C
2.	Other Regular Instruction Programs	EDN106				
	Operating		EDN	549.50 *	549.50 *	
			EDN	24,251,123 A	23,736,420 A	47,987,543 A
			EDN	1,133,541 B 1,224,922 N	1,133,541 B 1,286,168 N	2,267,082 B 2,511,090 N
3.	Exceptional Child Program	EDN107				
	Operating		EDN	958.00 *	963.50 *	
			EDN	25,543,399 A	25,555,283 A	51,098,682 A
			EDN	23,126 B 3,744,479 N	23,126 B 3,754,479 N	46,252 B 7,498,958 N
4.	Compensatory Education	EDN108				
	Operating		EDN	108.00 *	108.00 *	
			EDN	9,222,994 A 11,310,897 N	9,292,799 A 12,359,182 N	18,515,793 A 23,670,079 N
5.	Instructional Administration and Support School Administration	EDN203				
				810.50 *	810.50 *	

6.	Operating		EDN	21,803,398 A	21,710,718 A	43,514,116 A
	Instructional Media	EDN204				
	Operating		EDN	262.50 *	262.50 *	
				8,065,189 A	8,130,679 A	16,195,868 A
7.	Instructional Development	EDN205				
	Operating		EDN	109.00 *	109.00 *	
			EDN	5,262,786 A	4,977,422 A	10,240,208 A
			EDN	1,455,100 N	1,470,030 N	2,925,130 N
8.	Counseling	EDN206				
	Operating		EDN	312.00 *	312.00 *	
				8,655,571 A	8,800,906 A	17,456,477 A
9.	Student Activities	EDN207				
	Operating		EDN	35.00 *	35.00 *	
				3,078,355 A	3,147,037 A	6,225,392 A
10.	Psychological & School Social Work Servi	EDN208				
	Operating		EDN	162.00 *	162.00 *	
				4,632,610 A	4,590,989 A	9,223,599 A
11.	Institutional Administration and Support	EDN303				
	State Administration					
	Operating		EDN	213.00 *	213.00 *	
			EDN	7,516,613 A	7,476,750 A	14,993,363 A
				487,551 N	514,300 N	1,001,851 N
12.	District Administration	EDN304				
	Operating		EDN	218.00 *	218.00 *	
				7,909,433 A	7,619,982 A	15,529,415 A
13.	School Food Services	EDN305				
	Operating		EDN	194.00 *	194.00 *	
			EDN	10,806,749 A	10,288,860 A	21,095,609 A
			EDN	696.50 *	696.50 *	
			EDN	9,218,118 B	10,621,309 B	19,839,427 B
			EDN	15,698,227 N	15,539,628 N	31,237,855 N

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				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
14.	Safety and Security Services Operating	EDN306	EDN	2,216,144 A	2,183,964 A	4,400,108 A
15.	Physical Plant Operations & Maintenance- Operating	EDN307	EDN	1,014,10 * 27,329,598 A	1,014,10 * 26,845,786 A	54,175,384 A
16.	Physical Plant Operations & Maintenance- Operating Investment: Capital	AGS807	AGS AGS	231.00 * 8,023,548 A C	231.00 * 7,944,745 A 10,000,000 C	15,968,293 A 10,000,000 C
17.	Student Transportation Operating	AGS808	AGS	8.00 * 16,046,781 A	8.00 * 16,836,637 A	32,883,418 A
18.	Public Service Adult Education Operating	EDN406	EDN EDN EDN	23.00 * 2,273,494 A 489,894 B 459,555 N	23.00 * 2,258,237 A 489,894 B 459,555 N	4,531,731 A 979,788 B 919,110 N
19.	Public Libraries Operating Investment: Capital	EDN407	EDN AGS	441.55 * 12,176,866 A 355,000 C	441.55 * 12,482,362 A 650,000 C	24,659,228 A 1,005,000 C

HIGHER EDUCATION
University of Hawaii, Manoa
Instruction—UOH, Manoa

20.	UOH101	Operating	1,520.54 *	1,521.46 *	50,630,241 A	51,212,092 A	101,842,333 A
			6.00 *	6.00 *			
		Investment: Capital	4,096,574 B	4,206,052 B	277,785 N	277,785 N	8,302,626 B
			5,611,000 C	2,185,000 C			555,570 N
							7,796,000 C
21.	UOH102	Organized Research—UOH, Manoa Research and Development	150,000 A	A	150,000 A		150,000 A
		Operating	480.72 *	493.47 *	18,919,667 A	19,779,102 A	38,698,769 A
			34.42 *	34.42 *			
		Investment: Capital	1,208,527 N	1,236,295 N	1,552,367 W	1,688,114 W	2,444,822 N
					C	4,403,000 C	3,240,481 W
					E	2,850,000 E	4,403,000 C
							2,850,000 E
22.	UOH103	Public Service—UOH, Manoa	88.41 *	88.41 *	3,209,209 A	3,247,517 A	6,456,726 A
		Operating	12.00 *	12.00 *			
			1,982,413 B	2,045,932 B	43.64 *	43.64 *	4,028,345 B
			1,346,341 N	1,372,284 N	45,255 W	47,972 W	2,718,625 N
							93,227 W
23.	UOH104	Academic Support—UOH, Manoa	357.27 *	358.10 *	12,624,213 A	12,122,657 A	24,746,870 A
		Operating	10.00 *	10.00 *			
			842,142 B	881,483 B	6.00 *	6.00 *	1,723,625 B
			900,381 W	1,011,281 W			1,911,662 W
24.	UOH105	Student Services—UOH, Manoa	157.75 *	162.25 *			

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	Operating		UOH	4,580,385 A .25 *	4,969,727 A .25 *	9,550,112 A
			UOH	232,288 B	256,637 B	488,925 B
			UOH	842,000 N	842,000 N	1,684,000 N
			UOH	113.75 *	113.75 *	38,087,684 W
				18,327,236 W 26.00 *	19,760,448 W 29.00 *	
	Investment: Capital		UOH	4,276,235 X	4,670,845 X	8,947,080 X
			AGS	B	602,000 B	602,000 B
			AGS	2,740,000 C	3,395,000 C	6,135,000 C
25.	Institutional Support—UOH, Manoa	UOH106	UOH	373.50 *	378.50 *	35,633,232 A
				17,926,904 A 12.00 *	17,574,737 A 12.00 *	
				734,389 B	764,385 B	
				8.00 *	8.00 *	
				2,266,594 W 1,000,000 C	2,445,908 W 200,000 C	
26.	University of Hawaii, Hilo Instruction—UOH, Hilo	UOH211	UOH	195.50 *	195.50 *	12,016,993 A
				6,009,257 A	6,007,736 A	
				463,128 B	468,566 B	
				103,223 N	103,223 N	
				196,606 W	213,129 W	

	Investment: Capital	AGS	1,975,000 C	C	1,975,000 C
27.	Public Service—UOH, Hilo Operating	UOH UOH	48,426 A 176,854 B	48,722 A 182,057 B	97,148 A 358,911 B
28.	Academic Support—UOH, Hilo Operating	UOH UOH	43.00 * 1,778,742 A 7.00 * 218,329 B	45.00 * 1,839,336 A 7.00 * 225,403 B	3,618,078 A 443,732 B
29.	Student Services—UOH, Hilo Operating	UOH UOH	25.00 * 1,051,261 A 394,543 N 6.00 * 769,816 W 108,190 X	25.00 * 1,069,262 A 394,543 N 6.00 * 840,046 W 116,084 X	2,120,523 A 789,086 N 1,609,862 W 224,274 X
30.	Institutional Support - UOH, Hilo Operating Investment: Capital	UOH UOH AGS	44.00 * 1,840,006 A 34,977 B 45,000 C	44.00 * 1,954,458 A 37,720 B 455,000 C	3,794,464 A 72,697 B 500,000 C
31.	Honolulu Community College Instruction—Honolulu Community College Operating Investment: Capital	UOH UOH AGS	123.00 * 3,995,285 A 180,828 N 205,447 W 4,888,000 C	123.00 * 3,957,258 A 180,828 N 223,424 W 322,000 C	7,952,543 A 361,656 N 428,871 W 5,210,000 C
32.	Public Service—Honolulu Community Colle Operating	UOH UOH	7.00 * 588,419 A 238,895 B	7.00 * 591,159 A 243,457 B	1,179,578 A 482,352 B
33.	Academic Support—Honolulu Community Col	UOH303			

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	Operating		UOH	28.00 *	28.00 *	1,438,473 A
				714,522 A	723,951 A	
34.	Student Services—Honolulu Community Col	UOH304				
	Operating		UOH	20.00 *	22.00 *	
			UOH	532,858 A	556,312 A	1,089,170 A
			UOH	111,000 N	111,000 N	222,000 N
			UOH	5,441 W	5,801 W	11,242 W
35.	Institutional Support—Honolulu CC	UOH305				
	Operating		UOH	36.00 *	36.00 *	
			UOH	1,455,941 A	1,467,351 A	2,923,292 A
			UOH	41,681 B	45,070 B	86,751 B
	Investment: Capital		UOH	88,618 W	95,800 W	184,418 W
			AGS	549,000 C	C	549,000 C
36.	Kapiolani Community College Instruction—Kapiolani Community College	UOH311				
	Operating		UOH	110.10 *	110.10 *	
			UOH	4,159,741 A	4,200,806 A	8,360,547 A
			UOH	88,562 N	88,562 N	177,124 N
				4.00 *	4.00 *	
	Investment: Capital		UOH	370,854 W	395,002 W	765,856 W
			AGS	615,000 C	8,069,000 C	8,684,000 C
37.	Public Service—Kapiolani Community Colle	UOH312				
				1.00 *	1.00 *	

38.	Operating	UOH	59,117 A 1.00 *	59,913 A 1.00 *	119,030 A
	Academic Support—Kapiolani Community Col	UOH	221,181 B	226,147 B	447,328 B
	Operating	UOH	16.00 *	16.00 *	1,191,290 A
39.	Student Services—Kapiolani Community Col	UOH	596,485 A	594,805 A	
	Operating	UOH	20.00 *	20.00 *	997,835 A
		UOH	502,615 A	495,220 A	182,040 N
		UOH	91,020 N	91,020 N	17,102 W
		UOH	8,341 W	8,761 W	
40.	Institutional Support—Kapiolani CC	UOH315	29.00 *	32.00 *	
	Operating	UOH	1,140,516 A	1,233,499 A	2,374,015 A
		UOH	6,385 B	6,922 B	13,307 B
	Investment: Capital	UOH	78,011 W	84,564 W	162,575 W
		AGS	155,000 C	725,000 C	880,000 C
41.	Leeward Community College	UOH321	148.00 *	148.00 *	
	Instruction—Leeward Community College	UOH	4,592,109 A	4,585,302 A	9,177,411 A
	Operating	UOH	54,561 N	54,561 N	109,122 N
		UOH	2.00 *	2.00 *	
		UOH	171,251 W	181,687 W	352,938 W
42.	Public Service—Leeward Community College	UOH322	5.00 *	5.00 *	
	Operating	UOH	128,220 A	129,462 A	257,682 A
		UOH	1.00 *	1.00 *	
		UOH	279,892 B	289,263 B	569,155 B
43.	Academic Support—Leeward Community Colle	UOH323	25.00 *	25.00 *	
	Operating	UOH	764,702 A	791,143 A	1,555,845 A
44.	Student Services—Leeward Community Colle	UOH324	32.00 *	32.00 *	

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	Operating		UOH	813,121 A	813,484 A	1,626,605 A
			UOH	33,588 B	35,484 B	69,072 B
			UOH	125,000 N	125,000 N	250,000 N
			UOH	9,775 W	10,400 W	20,175 W
45.	Institutional Support—Leeward CC	UOH325				
	Operating		UOH	45.50 *	45.50 *	
	Investment: Capital		AGS	1,706,011 A	1,722,037 A	3,428,048 A
				155,000 C	C	155,000 C
46.	Windward Community College					
	Instruction—Windward Community College	UOH331				
	Operating		UOH	42.50 *	42.50 *	
			UOH	1,276,184 A	1,245,050 A	2,521,234 A
				4,246 W	4,603 W	8,849 W
47.	Public Service—Windward Community College	UOH332				
	Operating		UOH	2.00 *	2.00 *	
			UOH	65,450 A	74,351 A	139,801 A
				94,067 B	97,070 B	191,137 B
48.	Academic Support—Windward Community Coll	UOH333				
	Operating		UOH	12.00 *	12.00 *	
				430,115 A	444,073 A	863,552 A
49.	Student Services—Windward Community Coll	UOH334				
				9.00 *	9.00 *	

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				Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85
56.	Kauai Community College Instruction—Kauai Community College	UOH601		48.00 *	48.00 *	
				1,430,357 A	1,412,708 A	2,843,065 A
			Operating	1,735 N	1,735 N	3,470 N
			Investment: Capital	9,910 W	10,744 W	20,654 W
57.	Public Service—Kauai Community College	UOH602		50,000 C	25,000 C	75,000 C
				.50 *	.50 *	
				17,497 A	17,613 A	35,110 A
			Operating	20,465 B	21,445 B	41,910 B
58.	Academic Support—Kauai Community College	UOH603		10.50 *	10.50 *	
				376,743 A	379,646 A	756,389 A
			Operating			
59.	Student Services—Kauai Community College	UOH604		10.00 *	10.00 *	
				257,281 A	258,620 A	515,901 A
			Operating	36,000 N	36,000 N	72,000 N
				2,830 W	3,068 W	5,898 W
60.	Institutional Support—Kauai CC	UOH605		25.50 *	25.50 *	
				1,247,268 A	1,257,883 A	2,505,151 A
			Operating			

61.	West Oahu College Instruction—West Oahu College Investment: Capital Operating	UOH701	UOH AGS	21,238 B 214,000 C	23,018 B C	44,256 B 214,000 C
62.	Academic Support—West Oahu College Operating	UOH704	UOH	9.00 * 309,376 A	9.00 * 310,357 A	619,733 A
63.	Student Services—West Oahu College Operating	UOH705	UOH	3.50 * 146,297 A	3.50 * 146,878 A	293,175 A
64.	Institutional Support—West Oahu College Operating	UOH706	UOH	2.00 * 78,442 A	2.00 * 80,742 A	159,184 A
65.	Higher Education State-wide Support Academic Support—UOH, System-wide Support Operating	UOH901	UOH UOH	5.00 * 306,844 A	5.00 * 313,089 A	619,933 A
66.	Student Services—UOH, System-wide Support Operating	UOH902	UOH	38.00 * 3,043,251 A 1,079,862 B	38.00 * 3,156,908 A 1,144,292 B	6,200,159 A 2,224,154 B
67.	Institutional Sppt—UOH, System-wide Sppt Operating	UOH903	UOH	4.00 * 535,210 A	4.00 * 566,925 A	1,102,135 A
68.	Vocational Education, Statewide Coordinat Investment: Capital Operating	UOH904	UOH UOH AGS	186.75 * 6,008,272 A 6.00 * 516,606 B 2,000,000 C	181.75 * 5,862,467 A 6.00 * 516,606 B C	11,840,361 A 1,033,212 B 2,000,000 C
			UOH	7.00 * 210,166 A	7.00 * 210,627 A	420,793 A

Program Appropriations

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				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985 F	
69.	Statewide Plan & Coord for Post-Secondary Operating	UOH905	UOH	4.00 * 379,406 N	4.00 * 337,131 N		716,537 N
70.	Community College Systemwide Support	UOH906	UOH	1,303,648 A	1,112,372 A		2,416,020 A
	Operating		UOH	25.00 * 1,232,086 A	27.00 * 1,584,935 A		2,817,021 A
			UOH	16.00 * 909,266 B	16.00 * 930,186 B		1,839,452 B
			UOH	19.60 * 897,789 N	19.60 * 918,744 N		1,816,533 N
			UOH	3.00 * 217,432 W	3.00 * 231,750 W		449,182 W
H. CULTURE AND RECREATION							
CULTURAL ACTIVITIES							
1.	Historical and Archaeological Places	LNR801	LNR	26.00 * 830,178 A	26.00 * 828,621 A		1,658,799 A
	Operating Investment: Capital		LNR	85,000 C	1,835,000 C		1,920,000 C
2.	Aquaria	UOH881	UOH AGS	11.00 * 295,504 A	11.00 * 296,750 A		592,254 A
	Operating Investment: Capital			C	300,000 C		300,000 C

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Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985-86 F	
10.	Spectator Events & Shows - Aloha Stadium Operating	AGS889	AGS	411,631 A 34.00 *	184,687 A 34.00 *	596,318 A	
	Investment: Capital		AGS	1,686,606 B 3,560,000 C	1,747,966 B 1,725,000 C	3,434,572 B 5,285,000 C	
11.	General Admin for Culture & Recreation	LNR809		21.00 *	21.00 *		
	Operating		LNR	457,724 A	459,034 A	916,758 A	
	Investment: Capital		LNR	2,078,579 N	2,080,153 N	4,158,732 N	
			LNR	55,000 C	105,000 C	160,000 C	
			LNR	N	50,000 N	50,000 N	
I. PUBLIC SAFETY							
SAFETY FROM CRIMINAL ACTIONS							
1.	Intake Service Centers	SOC394					
	Operating		SOC	51.00 *	51.00 *	2,761,951 A	
				1,366,087 A	1,395,864 A		
2.	Confinement Juvenile Correctional Facilities	SOC401					
	Operating		SOC	90.00 *	90.00 *	5,535,610 A	
				2,637,687 A	2,897,923 A		
3.	High Security Facility	SOC402					
				133.00 *	133.00 *		

4.	Operating Kulani Correctional Facility	SOC403	SOC	3,172,982 A	3,206,725 A	6,379,707 A
	Operating Investment: Capital		SOC AGS	53.83 * 1,822,795 A C	53.83 * 2,018,857 A 1,260,000 C	3,841,652 A 1,260,000 C
5.	In-Community Facilities	SOC404	SOC	15.00 * 539,601 A	* A	539,601 A
6.	Hawaii Community Correctional Center	SOC405	SOC	33.00 * 869,132 A	35.00 * 910,408 A	1,779,540 A
7.	Maui Community Correctional Center	SOC406	SOC	38.00 * 1,017,692 A	38.00 * 1,202,806 A	2,220,498 A
8.	Oahu Community Correctional Center	SOC407	SOC	498.80 * 14,440,701 A	540.80 * 16,837,037 A	31,277,738 A
9.	Kauai Community Correctional Center	SOC408	SOC	27.00 * 786,543 A	27.00 * 797,883 A	1,584,426 A
10.	Social Rehabilitation of Confined Adults	UOH859	UOH UOH UOH	6.00 * 202,902 A 34,027 N 2,830 W	6.00 * 206,988 A 34,027 N 3,068 W	409,890 A 68,054 N 5,898 W
11.	Parole Supervision and Counseling Adult Parole Determinations	SOC411	SOC	2.00 * 80,040 A	2.00 * 80,520 A	160,560 A
12.	Adult Parole Supervision and Counseling	SOC413				

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13.	Operating Criminal Injuries Compensation	SOC414	SOC	19.00 * 389,804 A	19.00 * 391,804 A	781,608 A
	Operating		SOC	3.00 * 91,186 A	3.00 * 90,894 A	182,080 A
14.	General Support - Criminal Action Criminal Data and Crime Statistics	ATG191	ATG	11.00 * 207,114 A	11.00 * 190,641 A	397,755 A
15.	General Adm - Confinement	SOC493		27.00 * 550,212 A	27.00 * 585,800 A	1,136,012 A
	Operating		SOC	193,594 B	207,145 B	400,739 B
	Investment: Capital		AGS	26,921,000 C	25,000,000 C	51,921,000 C
16.	Statistical Analysis Center	ATG231		13.00 * 507,667 A	13.00 * 504,791 A	1,012,458 A
	Operating		ATG			
17.	SAFETY FROM PHYSICAL DISASTERS Prevention of Natural Disasters	LNR810		3.00 * 121,591 A	3.00 * 116,705 A	238,296 A
	Operating		LNR			

18. Amelioration of Physical Disasters DEF110

Operating	DEF	134.00 *	136.00 *	6,058,475 A	12,009,942 A
		5,951,467 A	4.00 *	4.00 *	
Investment: Capital	DEF	1,098,099 N	1,358,279 N	1,358,279 N	2,456,378 N
	AGS	1,406,000 C	1,521,000 C	1,521,000 C	2,927,000 C
	AGS	1,321,000 N	1,576,000 N	1,576,000 N	2,897,000 N

J. INDIVIDUAL RIGHTS

PROTECTION OF THE CONSUMER

1. Testing & Certification of Consumer Good

	AGR810				
Operating	AGR	26.25 *	26.25 *	576,468 A	1,163,588 A
		587,120 A	26.25 *	26.25 *	
	AGR	721,441 N	717,714 N	717,714 N	1,439,155 N

2. Regulation of Services
Consumer Advocate for Comm, Util & Trans

	CCA103				
Operating	CCA	23.00 *	22.00 *	970,340 A	1,931,501 A
		961,161 A	4.00 *	4.00 *	
	CCA	224,608 X	230,965 X	230,965 X	455,573 X

3. Banking Services

	CCA104				
Operating	CCA	25.00 *	25.00 *	712,982 A	1,422,367 A
		709,385 A			

4. Insurance Services

	CCA106				
Operating	CCA	32.00 *	32.00 *	794,051 A	1,537,734 A
		743,683 A			

5. Professional, Vocational & Personal Svcs

	CCA105				
Operating	CCA	37.00 *	37.00 *	1,230,462 A	2,433,415 A
		1,202,953 A			

6. Transportation, Communications, & Utilit

	BUF901				
Operating	BUF	19.00 *	19.00 *	808,373 A	1,595,333 A
		786,960 A			

Enforcement of Fair Business Practices

Program Appropriations

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7.	Business Registration	CCA111		24.00 *	24.00 *		
	Operating		CCA	464,745 A	478,955 A		943,700 A
			CCA	159,000 B	159,000 B		318,000 B
8.	Measurement Standards	AGR812		20.00 *	20.00 *		
	Operating		AGR	505,225 A	489,380 A		994,605 A
9.	Offc of Consumer Prot - Adv & Terms of Sale	CCA110		27.00 *	27.00 *		
	Operating		CCA	672,820 A	675,453 A		1,348,273 A
10.	General Support—Protection of the Consum	CCA191		47.00 *	47.00 *		
	Operating		CCA	1,352,752 A	1,397,547 A		2,750,299 A
			CCA	881,364 B	881,364 B		1,762,728 B
11.	LEGAL & JUDICIAL PROTECTION OF RIGHTS Legal Assistance in Criminal Actions	BUF151		68.00 *	72.00 *		
	Operating		BUF	2,285,241 A	2,945,216 A		5,230,457 A
12.	Conveyances and Recordings	LNR111		44.00 *	44.00 *		
	Operating		LNR	874,994 A	854,350 A		1,729,344 A

13.	Commission on the Status of Women Operating	SOC888	SOC	39,583 A	38,519 A	78,102 A
K. GOVERNMENT-WIDE SUPPORT EXEC DIRECTN, COORD, & POLICY DEVELOPMENT						
1.	Office of the Governor	GOV100				
	Operating			43.00 *	43.00 *	
	Investment: Capital		GOV	1,830,077 A	1,922,869 A	3,752,946 A
			GOV	3,000,000 C	3,000,000 C	6,000,000 C
2.	Office of the Lieutenant Governor	LTG100				
	Operating		LTG	24.00 *	24.00 *	
				1,803,113 A	2,881,387 A	4,684,500 A
3.	Policy Development and Coordination Buf—Prgm Planng, Analysis & Budgeting	BUF101				
	Operating			70.00 *	62.00 *	
			BUF	8,717,611 A	18,690,532 A	27,408,143 A
			BUF	4,127 B	895,281 B	899,408 B
			BUF	N	577,565 N	577,565 N
			BUF	W	13,737 W	13,737 W
4.	Statewide Plan and Coordination	PED103				
	Operating			53.00 *	49.00 *	
	Investment: Capital		PED	2,396,198 A	1,802,786 A	4,198,984 A
			PED	5,500,000 C	5,670,000 C	11,170,000 C
5.	Gov—Oth Policy Development & Coordinat	GOV102				
	Operating		GOV	12.00 *	12.00 *	
				1,197,227 A	1,221,870 A	2,419,097 A
FISCAL MANAGEMENT						
6.	Revenue Collection	TAX102				
	Income Assessment P Audit					
	Operating		TAX	123.00 *	123.00 *	
				3,365,863 A	2,653,324 A	6,019,187 A
7.	Tax Collections Enforcement	TAX103				
				74.00 *	74.00 *	

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				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1985-86 F	
	Operating		TAX	1,426,695 A	1,418,333 A	2,845,028 A	
8.	Tax Services & Processing	TAX105					
	Operating		TAX	89.00 *	89.00 *	2,334,126 A	4,634,891 A
9.	Supporting Services—Revenue Collection	TAX107					
	Operating		TAX	36.00 *	40.00 *	3,671,279 A	5,589,361 A
10.	Fiscal Procedures and Control Acct System Development & Maintenance	AGS101					
	Operating		AGS	9.00 *	9.00 *	300,030 A	555,567 A
11.	Expenditure Examination	AGS102					
	Operating		AGS	23.00 *	23.00 *	711,801 A	1,439,052 A
12.	Recording and Reporting	AGS103					
	Operating		AGS	15.00 *	15.00 *	454,743 A	901,472 A
13.	Internal Post Audit	AGS104					
	Operating		AGS	19.00 *	19.00 *	915,980 A	1,716,493 A

14.	Cash and Debt Management	BUF110		16.00 *	16.00 *		
	Operating		BUF	212,506,645 A	230,162,680 A	442,669,325 A	
			BUF	157,189 B	44,738 B	201,927 B	
			BUF	5,000 U	5,000 U	10,000 U	
15.	GENERAL SERVICES						
	Legal Services	ATG100					
	Operating		ATG	104.00 *	103.00 *		
				5,136,622 A	6,036,702 A	11,173,324 A	
			ATG	9.00 *	9.00 *		
			ATG	485,448 N	487,716 N	973,164 N	
				30.00 *	30.00 *		
			ATG	849,564 U	849,564 U	1,699,128 U	
16.	Electronic Data Processing Services	BUF131					
	Operating		BUF	212.00 *	212.00 *		
				7,174,342 A	7,219,623 A	14,393,965 A	
				25.00 *	25.00 *		
			BUF	1,192,857 U	1,210,241 U	2,403,098 U	
17.	Records Management	AGS111					
	Operating		AGS	24.00 *	24.00 *		
				432,748 A	430,328 A	863,076 A	
18.	Personnel Services						
	Work Force Attr, Select, Class, & Effect	PER102					
	Operating		PER	77.00 *	87.00 *		
			PER	2,074,611 A	2,415,836 A	4,490,447 A	
				B	1,200 B	1,200 B	
19.	Supporting Services—Personnel Services	PER191					
	Operating		PER	12.00 *	12.00 *		
				469,743 A	468,887 A	938,630 A	
20.	Employee Fringe Benefit Administration						
	Retirement	BUF141					
	Operating		BUF	24.13 *	24.13 *		
				125,734,767 A	141,087,416 A	266,822,183 A	

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F 1984-85 F	Appropriations Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
21.	Group Life Insurance, Med, Hosp & Dntl Bn Operating	BUF142	BUF	7.87 * 321,536 S	7.87 * 325,453 S	646,989 S
22.	Property Management Public Lands Management Operating Investment: Capital	LNR101	BUF LNR	11.00 * 23,581,988 A 11,952,681 S	11.00 * 27,173,495 A 13,181,115 S	50,755,483 A 25,133,796 S
23.	Insurance Management Operating	AGS203	AGS	34.00 * 795,617 A 42,000 C	34.00 * 800,837 A 5,730,000 C	1,596,454 A 5,772,000 C
24.	Land Survey Operating	AGS211	AGS	8,157,899 A 820,234 U	9,366,205 A 927,422 U	17,524,104 A 1,747,656 U
25.	Facilities Construction and Maintenance Construction Operating Investment: Capital	AGS221	AGS	28.00 * 683,278 A	28.00 * 692,068 A	1,375,346 A
				20.00 * 538,190 A 18,665,000 C	20.00 * 540,672 A 2,384,000 C	1,078,862 A 21,049,000 C

		AGS	4,726,000 D	D	4,726,000 D
26.	Custodial Services	AGS231			
	Operating		145.50 *	146.50 *	
		AGS	8,429,369 A	6,832,950 A	15,262,319 A
		AGS	289,709 U	309,989 U	599,698 U
27.	Grounds Maintenance	AGS232			
	Operating		39.50 *	39.50 *	
		AGS	725,675 A	727,540 A	1,453,215 A
28.	Building Repairs and Alterations	AGS233			
	Operating		24.00 *	24.00 *	
		AGS	629,056 A	640,552 A	1,269,608 A
29.	Purchasing and Supplies Central Purchasing	AGS240			
	Operating		16.00 *	16.00 *	
		AGS	322,077 A	295,338 A	617,415 A
		AGS	20,000 W	21,000 W	41,000 W
30.	Surplus Property Management	AGS244			
	Operating		5.00 *	5.00 *	
		AGS	152,094 W	153,479 W	305,573 W
31.	Motor Pool	AGS251			
	Operating		8.50 *	8.50 *	
		AGS	541,260 W	533,680 W	1,074,940 W
32.	Parking Control	AGS252			
	Operating		12.50 *	12.50 *	
		AGS	1,115,797 W	1,017,560 W	2,133,357 W
33.	Communication	AGS263			
	Operating		16.00 *	16.00 *	
		AGS	2,260,576 A	2,292,836 A	4,553,412 A
		AGS	734,480 U	892,128 U	1,626,608 U
34.	Capitol Building Security	ATG801			

Program Appropriations

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				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating		ATG	37,00 *	47,00 *	
				703,644 A	847,870 A	1,551,514 A
35.	Other State Buildings Security	AGS301				
	Operating		AGS	10,00 *	*	
				135,842 A	A	135,842 A
36.	Genrl Adm Svcs—Accounting & General Sv	AGS901				
	Operating		AGS	44,00 *	44,00 *	
				1,104,974 A	1,113,439 A	2,218,413 A
37.	Subsidies to Counties					
	Grants in Aid to Counties					
	Operating	SUB101	BUF			
	County Capital Improvement Projects			19,447,551 A	19,447,551 A	38,895,102 A

SECTION 4. Part III, Session Laws of Hawaii, is amended:

(1) By amending Section 4 to read:

“SECTION 4. Provided that of the sums appropriated for Tourism, Department of Planning and Economic Development (PED 113), the general fund used for a contract with the Hawaii Visitors Bureau for the purpose of tourism promotion shall not exceed \$2,810,729 for fiscal year 1983-84 and \$3,934,391 for fiscal year 1984-85; provided further, that not less than \$500,000 shall be programmed for promotion of tourism in Asia; provided further, that not less than \$100,000 shall be expended for promotion of Molokai as a visitor destination.”

(2) By adding a new Section to read:

“SECTION 4B. Provided that of the general fund appropriation for fiscal year 1984-1985 to Commerce and Industry, Department of Planning and Economic Development (PED 102), the sum of \$117,886 shall be expended for the High Technology Development Corporation; provided further that in addition to the amount appropriated for the High Technology Development Corporation, the department shall use not less than \$15,000 from the funds appropriated for fiscal year 1984-1985 to Commerce and Industry (PED 102) to pursue inquiry into high technology developments in other states and countries.”

(3) By adding a new Section to read:

“SECTION 5A. Provided that of the general fund appropriation for fiscal year 1984-85 to the Commerce and Industry, Department of Planning and Economic Development (PED 102), \$10,000 shall be used for conducting a study on the feasibility of making Hawaii a center for the insurance business; provided further that the funds provided shall be matched on an equal basis by the insurance industry.”

(4) By adding a new Section to read:

“SECTION 5C. Provided that of the general fund appropriation for fiscal year 1984-85 for the Tourism Program (PED 113), \$30,000 of the general funds used for contract with the Hawaii Visitors Bureau shall be used for the promotion of the Australian Federation of Travel Agents Convention; provided further that funds shall be made available on a 2:1 (State/County) matching basis with the County of Hawaii.”

(5) By adding a new Section to read:

“SECTION 5D. Provided that of the general fund appropriation for fiscal year 1984-85 to the Tourism Program (PED 113), \$50,000 shall be used to

contract for a feasibility study on the establishment of a convention center in Hawaii."

(6) By adding a new Section to read:

"SECTION 5E. Provided that of the general fund appropriation for fiscal year 1984-85 for the General Support for Economic Development Program, Department of Planning and Economic Development (PED 142), \$9,980 shall be used to accommodate an increase in the cost of membership dues for the Pacific Basin Development Council."

(7) By adding a new Section to read:

"SECTION 5F. Provided that the Aloha Tower Development Corporation, with the approval of the Governor, may issue revenue bonds for the public participation portion of the redevelopment of the Aloha Tower Complex; provided further that the sum total of the bonds so issued shall not exceed \$33,260,000; provided further that no bonds shall be issued and no demolition or site development shall proceed until development proposals have been incorporated into firm contractual commitments; provided further that there is appropriated out of revenue bond funds the sum of \$33,260,000, or so much thereof as may be necessary, for fiscal year 1984-1985, for the public participation portion of the redevelopment of the Aloha Tower Complex; and provided further that the sum appropriated shall be expended by the Aloha Tower Development Corporation."

(8) By adding a new Section to read:

"SECTION 8. Provided that of the general fund appropriation for fiscal year 1983-84 and fiscal year 1984-85 to Distribution Systems Improvement for Agriculture (AGR 151), \$200,000 and \$300,000 respectively, shall be used to promote fresh pineapples in the United States and Canada; provided further that these funds shall not be expended unless matched dollar for dollar by private contributions."

(9) By adding a new Section to read:

"SECTION 8A. Provided that of the general fund appropriation for fiscal year 1984-85 to Distribution Systems Improvement for Agriculture, Department of Agriculture (AGR 151), \$30,000 shall be used for the development and implementation of a milk promotion program."

(10) By adding a new Section to read:

"SECTION 8B. Provided that of the general fund appropriation for the Distributions Systems Improvement for Agriculture, Department of Agriculture

(AGR 151), the sum of \$100,000 shall be used in fiscal year 1984-85 for the promotion of diversified agriculture.”

(11) By adding a new Section to read:

“SECTION 8C. Provided that of the general fund appropriation to Financial Assistance for Agriculture, Department of Agriculture (AGR 101), the sum of \$250,000 shall be used in fiscal year 1984-85 for the Agricultural Products Program.”

(12) By adding a new Section to read:

“SECTION 8D. Provided that of the general fund appropriation for fiscal year 1984-85 for the Plant Quarantine, Department of Agriculture (AGR 121), \$15,000 shall be used to provide nematode detection equipment for the Statewide Nursery Certification Program.”

(13) By adding a new Section to read:

“SECTION 8E. Provided that of the general fund appropriation for fiscal year 1984-85 to the Plant Pest Control, Department of Agriculture (AGR 122), \$30,000 shall be used for a biological control project to control webworms.”

(14) By adding a new Section to read:

“SECTION 10A. Provided that of the general fund appropriation for fiscal year 1984-85 for Commission on Manpower and Full Employment, Department of Labor and Industrial Relations (LBR 135), \$8,810 shall be used to conduct a series of employment conference activities in Hawaii.”

(15) By adding a new Section to read:

“SECTION 10B. Provided that of the general fund appropriation to the Disability Compensation program, Department of Labor and Industrial Relations (LBR 183), the sum of \$170,000 shall be used in fiscal year 1984-85 to hire hearings officers to process workers’ compensation cases; provided further that the sum of \$25,000 shall be used to hire one permanent hearings officer and \$145,000 shall be used to hire per diem hearings officers, support and clerical staff, travel and related equipment.”

(16) By adding a new Section to read:

“SECTION 10C. Provided that of the general fund appropriation for Vocational Rehabilitation, Department of Social Services and Housing (SOC 802), the sum of \$332,694 shall be used for purchases of service as authorized in this Act.”

(17) By adding a new Section to read:

"SECTION 10D. Provided that of the general fund appropriation for General Administration, Department of Labor (LBR 902), the sum of \$18,000 shall be used in fiscal year 1984-85 for purchases of service as authorized by this Act."

(18) By adding a new Section to read:

"SECTION 10E. Provided that of the general fund appropriation to Data Gathering, Research and Analysis, Department of Labor and Industrial Relations (LBR 901), the sum of \$177,937 shall be expended in fiscal year 1984-85 for the Hawaii State Occupational Information Coordinating Committee for occupational and career information activities."

(19) By adding a new Section to read:

"SECTION 11A. Provided that of the special fund appropriation to Air Transportation Facilities and Services Support, Department of Transportation (TRN 195), \$100,000 shall be expended for the Civil Air Patrol for fiscal year 1984-85."

(20) By adding a new Section to read:

"Section 11B. Provided that the Department of Transportation shall conduct a feasibility study for an alternative site selection for a general aviation airport including Helemano; provided further the study shall include public hearings; provided further the study shall be financed from Air Transportation Facilities and Services Support (TRN 195)."

(21) By adding a new Section to read:

"SECTION 11C. Provided that of the special fund appropriation to Harbor Transportation Facilities and Services Support, Department of Transportation (TRN 395), the sum of \$150,000 shall be expended for oil spill disasters in fiscal year 1984-85."

(22) By adding a new Section to read:

"SECTION 13A. Provided that the Tuberculosis Branch, Department of Health (HTH 101), shall continue to decrease the administration of chest x-rays for the diagnosis of tuberculosis; provided further that the department, as soon as possible, shall terminate the use of its mobile x-ray vans."

(23) By adding a new Section to read:

"SECTION 13B. Provided that of the general fund appropriation for the Hansen's Disease program, Department of Health (HTH 111), the sum of \$35,000 shall be used in fiscal year 1984-85 to supplement funding for the patient employment program."

(24) By adding a new Section to read:

"SECTION 13C. Provided that of the general fund appropriation in fiscal year 1984-85 to Hawaii county for Emergency Medical Services, Department of Health (HTH 170), \$172,867 shall be used for the creation of a ALS/BLS emergency ambulance unit in Honokaa, Hawaii."

(25) By adding a new Section to read:

"SECTION 13D. Provided that of the general fund appropriation for fiscal year 1984-85 for Honokaa Hospital (HTH 212), \$48,000 shall be used to purchase a new ambulance."

(26) By adding a new Section to read:

"SECTION 13E. Provided that of the special funded positions authorized for Leahi Hospital, Department of Health (HTH 242), the following positions: Registered Practical Nurse III (No. 18201); Clerk Steno III (No. 18161); Janitor II (No. 18476); and registered Practical Nurse III (No. 18355) shall be converted to Personnel Management Specialist V; Clerk Steno II; Janitor Supervisor and Pharmacist I, respectively."

(27) By adding a new Section to read:

"SECTION 13F. Provided that a Mental Health Supervisor III general fund position be established in the Community Based Services for Mental Health Program (HTH 401) in fiscal year 1984-85 for the Leeward Oahu Mental Health Center as a substitute for the Public Health Administrative Officer IV (31804) position in the Central Oahu Mental Health Center which is to be converted to a temporary federal fund position in fiscal year 1984-85."

(28) By adding a new Section to read:

"SECTION 13G. Provided that of the general fund appropriation for fiscal year 1984-85 for General Support for Mental Health Program (HTH 495), \$20,000 shall be used for a temporary position for a coordinator of child abuse and neglect services."

(29) By adding a new Section to read:

"SECTION 13H. Provided that four vacant general fund position counts (Pos. Nos. 10777, 10746, 32910, and 26202) from Waimano Training School and Hospital, Department of Health (HTH 511), shall be transferred to identification, evaluation, and treatment for mentally retarded (HTH 500), in fiscal year 1984-85."

(30) By adding a new Section to read:

"SECTION 13I. Provided that two vacant general fund position counts from Waimano Training School and Hospital, Department of Health (HTH 511), shall be transferred to Hale Hauoli (Kauai), Community Based Services for Mental Retardation, Department of Health (HTH 501), in fiscal year 1984-85."

(31) By adding a new Section to read:

"SECTION 13J. Provided that two vacant general fund position counts (Pos. Nos. 31225 and 24874) from Waimano Training School and Hospital, Department of Health (HTH 511), shall be transferred to Community Based Services for Mental Retardation, Department of Health (HTH 501), in fiscal year 1984-85."

(32) By adding a new Section to read:

"SECTION 13K. Provided that of the general fund appropriation for fiscal year 1984-85 for the Public Health Nursing Services, Department of Health (HTH 902), \$43,240 shall be used for two temporary Registered Professional Nurse IV positions, one each for Maui and for Kauai for the purpose of developing and implementing a pilot program on these respective Islands similar to the Case Management and Coordination Program for the Fragile Elderly in the County of Hawaii."

(33) By adding a new Section to read:

"SECTION 13L. Provided that of the general fund appropriation for fiscal year 1984-85 for Private Hospitals and Medical Services, Department of Health (SUB 601), Kahuku Hospital shall be allotted \$58,330; Molokai General Hospital shall be allotted \$334,054, and the Waianae Coast Comprehensive Health Center-Emergency Room shall be allotted \$318,117 for expansion to 24-hour services and purchase of a back-up generator."

(34) By amending Section 15 to read:

"SECTION 15. Provided, that the Department of Health, shall submit a report to the Legislature not less than twenty days prior to the 1985 Regular Session. As a minimum the report shall include:

1. Modifications made to the Hawaii State Plan for Alcohol, Drug Abuse and Mental Health as determined by the needs assessment study outlined in Section III, Appendix A of the State Plan. The evaluation shall also include an explanation of the key informant surveys and public and private utilization rates used in modifying the State Plan for the period July 1, 1983 to June 30, 1984.
2. A comparison explaining quality of service differences or similarities between public and private sector providers.

3. Monitoring methodology used in evaluating public and private sector providers to determine compliance with standards developed by the Mental Health Division. The report shall also explain any action taken by the division of any program which did not meet the division standards.
4. A description of the division's monitoring and evaluation system, individual assessments on the efficiency and effectiveness of each provider's program, and each provider's compliance with chapter 42, Hawaii Revised Statutes, the provider's contracted level of services as well as the provider's actual level of services provided for the period July 1, 1983 to June 30, 1984.
5. Long term plans for the period July 1, 1984 to June 30, 1989 which include but are not limited to program goals and objectives; effectiveness measures, services by program categories, defined target groups for public and private agencies by program categories, alternatives considered, and program evaluation goals and standards."

(35) By adding a new Section to read:

"SECTION 16A. Provided that of the general fund appropriation for fiscal year 1984-85 for Chronic Diseases, Department of Health (HTH 151), \$163,000 shall be used for purchase of service for hemophilia-related medical care and treatment of persons suffering from hemophilia as authorized in this Act."

(36) By adding a new Section to read:

"SECTION 16B. Provided that of the general fund appropriation for Emergency Medical Services, Department of Health (HTH 170), the sum of \$149,120 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act."

(37) By adding a new Section to read:

"SECTION 16C. Provided that of the general fund appropriation for Family Planning, Department of Health (HTH 185), the sum of \$436,214 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act."

(38) By adding a new Section to read:

"SECTION 16D. Provided that of the general fund appropriation for Community Based Services for Mental Health, Department of Health (HTH 401), the sum of \$3,863,019 shall be used in fiscal year 1984-85 for purchases of service; provided further that of the federal funds authorized, the sum of \$1,558,127 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act."

(39) By adding a new Section to read:

“SECTION 16E. Provided that of the general fund appropriation for Identification, Evaluation and Treatment for Mentally Retarded, Department of Health (HTH 500), the sum of \$360,923 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act.”

(40) By adding a new Section to read:

“SECTION 16F. Provided that of the general fund appropriation for Community Based Services for Mentally Retarded, Department of Health (HTH 501), the sum of \$1,895,146 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act.”

(41) By adding a new Section to read:

“SECTION 16G. Provided that of the general fund appropriation for Health Care Services, Department of Health (HTH 801), the sum \$141,510 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act.”

(42) By adding a new Section to read:

“SECTION 16H. Provided that of the general fund appropriation for General Administration, Department of Health (HTH 907), the sum of \$103,730 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act.”

(43) By adding a new Section to read:

“SECTION 16I. Provided that of the general fund appropriation for Health Education, Department of Health (HTH 908), the sum of \$54,600 shall be used for purchases of service in FY 1984-85 as authorized in this Act.”

(44) By adding a new Section to read:

“SECTION 17A. Provided that the County/State Hospitals Division, Department of Health (HTH 907), is directed to lapse a total of \$2,300,000 of the fiscal year 1982-83 special fund excess receipts carried forward into fiscal year 1983-84, from the respective County/State Hospitals as determined by the County/State Hospitals Division.”

(45) By adding a new Section to read:

“SECTION 17B. Provided that the County/State Hospitals Division, Department of Health (HTH 907), shall lapse \$400,000 in special fund from the fiscal year 1982-83 balance carried forward to fiscal year 1983-84.”

(46) By adding a new Section to read:

“SECTION 17C. Provided that the Department of Health shall develop a functional and financial plan for Waimano Training School and Hospital and the Family Health Services Division to meet the needs of the developmentally disabled; provided further that the plan shall include, but not be limited to, the following:

1. A statement of program goals and objectives;
2. A description of activities to carry out the goals and objectives;
3. An organizational and management structure required to carry out activities;
4. The financial requirements including the impact of continuing or discontinuing medicaid funds; and
5. An implementation plan for phasing in new services, activities, and structures.

Provided further that the plan shall be submitted to the Legislature not less than twenty days before the convening of the 1985 Regular Session.”

(47) By adding a new Section to read:

“SECTION 17D. Provided that of the general fund appropriation for fiscal year 1984-85 for the Department of Health, \$100,000 shall be used for a comprehensive report on the County of Hawaii hospitals to include the following:

1. An exploration and analysis of all feasible alternatives recommended in the Department of Health study on alternatives;
2. A public review of the alternatives being proposed;
3. Recommendation of alternative and implementation table for conversion; and
4. Estimation of the cost of conversion.

Provided further that a report shall be submitted not less than twenty days prior to the convening of the 1985 Regular Session.”

(48) By adding a new Section to read:

“SECTION 18A. Provided, that the Department of Social Services and Housing shall develop and implement alternative reimbursement methods in Health Care Payments (SOC 230), for non-institutional practitioners for health care services in fiscal year 1984-85; provided further, that the existing method of payments to individual practitioners and to providers of all other non-institutional items and services including outpatient hospital services shall be terminated upon the implementation of the alternative reimbursement methods developed.”

(49) By adding a new Section to read:

"SECTION 18B. Provided that the Department of Social Services and Housing (SOC 230), shall develop and implement not later than January 1, 1985 in Health Care Payments (SOC 230), a prospective method of reimbursement for providers of institutional care; provided further that for free-standing, long-term care facilities (Skilled Nursing Facilities) and Intermediate Care Facilities being currently constructed or renovated, or to be constructed or renovated, whether as an independent unit or as renovation or extension to existing facilities, but in any case commencing operation after June 30, 1984, the department shall include the capital-related cost of newly constructed or renovated facility in determining the amount of payment to such providers of institutional health care; provided further that the payments to be determined shall be based on a reasonable cost method of payment or other reasonable method as deemed appropriate by the department which shall include the capital-related cost."

(50) By amending Section 21 to read:

"SECTION 21. Provided that of the general funds appropriated for Health Care Payments (SOC 230), \$386,855 in general funds and \$369,447 in matching federal funds for fiscal year 1983-84, and \$386,835 in general funds, \$453,424 in matching federal funds, and \$65,990 in county funds for fiscal year 1984-85 shall be used for the development and operation of a demonstration nursing home without walls project; and provided further, that the demonstration project shall not be subject to licensing or certification requirements of the Department of Health or of the State Health Planning and Development Agency; and provided further, that personnel employed for the demonstration project shall not be subject to the provisions of Chapters 76 and 77, Hawaii Revised Statutes; and provided further that the Department of Social Services and Housing shall adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, for purposes of this Act, and that the Director of Social Services shall provide a comprehensive report on the status of the demonstration project to the Legislature at least twenty days prior to the convening of each Regular Session during the period of the demonstration project."

(51) By adding a new Section to read:

"SECTION 22A. Provided that of the general fund appropriation for Hawaii Office of Economic Opportunity (GOV 860), the sum of \$1,082,584 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act. Provided that any funds appropriated for purchases of legal services in fiscal year 1984-85 shall not be used for legal action against the State of Hawaii or any of its departments, boards, commissions, agencies, or subdivisions or any government agency except in cases where such action is necessary to bring review and action pertaining to the rights and benefits of individuals and

families that would maintain their minimal quality of life or access to legal entitlements; provided further that if any legal action is taken other than as provided above, the Governor may reduce appropriated funds by no more than the court costs incurred by the State of Hawaii in defending against that legal action; provided further that any disagreement pertaining to the amount reduced by the Governor may be raised in the appropriate court by action against the Governor. Provided further that after July 1, 1983, fees awarded, ordered, stipulated to or collected by any agency providing legal services under a purchase of service agreement through Hawaii Office of Economic Opportunity (GOV 860), against any state agency or office, which would cause the amount of the state funds to exceed the amount appropriated for each respective fiscal year, shall be paid from or set off against the sum appropriated for each respective fiscal year to such agency; provided further that such agency shall submit expenditure reports to the legislature twenty days prior to the convening of each regular session. Such report shall include statements of income, expenditures, and accomplishments of the previous fiscal year."

(52) By adding a new Section to read:

"SECTION 22B. Provided that of the general fund appropriation for Planning, Program Development, and Coordination of Services for the Elderly, Office of the Governor (GOV 602), the sum of \$317,904 shall be used in fiscal year 1984-85 for purchases of service as authorized by this Act."

(53) By adding a new Section to read:

"SECTION 22C. Provided that of the general fund appropriation for Planning, Program Development, and Coordination of Services for Immigrants, Office of the Governor (GOV 803), the sum of \$159,950 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act."

(54) By adding a new Section to read:

"SECTION 22D. Provided that of the general fund appropriation for Services to Individuals and Families, Department of Social Services and Housing (SOC 111), the sum of \$1,208,148 shall be used in fiscal year 1984-85 for purchases of service; provided further that of the federal funds authorized, \$3,727,938 shall be used for purchases of service in fiscal year 1984-85 as authorized in this Act."

(55) By amending Section 24 to read:

"SECTION 24. Provided, that the Board of Education shall develop and implement a system for the regular and periodic review by the Board of the Department's ongoing programs and operations; and provided further that such system shall include but not be limited to the following elements: (1) annual

reviews scheduled to cover a manageable portion of the department's programs and operations such that all programs and operations shall eventually be reviewed by a specified date; (2) programs and operations selected for simultaneous review as much as possible shall be related in function or program area; (3) establishment of meaningful criteria for the review; (4) establishment of procedures and safeguards to ensure the orderly reorganization, expansion, reduction, or termination of programs and operations when deemed appropriate by the Board as a result of the review; and (5) opportunity for public input in the review process; and provided further, that the Board shall submit a report of its findings and recommendations to the Legislature at least twenty days prior to the convening of the 1985 Regular Session."

(56) By adding a new Section to read:

"SECTION 24A. Provided that in the event of general fund restrictions imposed by the Governor or the Department of Education, appropriations for basic education programs and their development shall be the last to be affected by such restriction."

(57) By amending Section 26 to read:

"SECTION 26. Provided that of the sums appropriated and positions approved for the Regular Instruction Program (EDN 105), it is the intent of the Legislature that the Governor is authorized to expend general fund moneys to provide for and maintain the level of services approved by the Legislature and authorized by this Act; provided further that in the event the sum received by the Department of Education in EDN 105 under Public Law 81-874 (Impact Aid), or any other public law which amends or supersedes Public Law 81-874, is less than \$10,744,743 for fiscal year 1983-84 and \$15,600,000 for fiscal year 1984-85, the Legislature may under procedures established in Article III, Section 10, of the Hawaii State Constitution, meet in special session to deal with the problem. If the sum received is greater than \$10,744,743 for fiscal year 1983-84 and \$15,600,000 for fiscal year 1984-85, then the general fund appropriation to the Department of Education shall be reduced to the extent that the actual sum received exceeds the amount authorized for each respective fiscal year."

(58) By amending Section 27 to read:

"SECTION 27. Provided that the amounts shown for Regular Instruction (EDN 105) are intended for student enrollment projections of 161,042 for fiscal year 1983-84 and 162,756 for fiscal year 1984-85."

(59) By adding a new Section to read:

"SECTION 27A. Provided that of the sums appropriated and positions approved for the Regular Instruction Program (EDN 105), the Department of

Education shall conduct a study on alternative means of structuring classrooms and providing direct classroom services to students in public schools; provided further that the study shall include a consideration of alternative means of dividing students into classes, such as homogenous groupings; provided further that the study shall include, but not be limited to, the consideration of such alternatives as the deployment of District Resource Teachers (DRT), Instructional Resource Augmentation (IRA) positions and Educational Officers (EO) to regular classroom teaching positions, weighted class enrollment by student profiles and course specifications, expanded use of community resources, and any other approaches, in theory or practice, which might be effective in enhancing classroom experiences for students; and provided further that the department shall submit its findings and recommendations in a report to be accompanied by an implementation plan to the Legislature at least twenty days prior to the convening of the 1985 Regular Session."

(60) By adding a new Section to read:

"SECTION 27B. Provided that of the general fund appropriation for Other Regular Instruction (EDN 106), the sum of \$100,000 shall be used in fiscal year 1984-85 for purchases of service for marine education; provided further that in contracting with agencies under a purchase of service agreement, the Department of Education shall ensure that the services being provided are an extension of program services which are not presently offered by the Department of Education."

(61) By amending Section 28 to read:

"SECTION 28. Provided that of the general fund appropriation to the other Regular Instruction Programs (EDN 106), \$16,964,552 and 527 positions in fiscal year 1983-84 and \$16,190,828 and 527 positions in fiscal year 1984-85 shall be allotted for the School Priority Fund, which shall be used to augment regular instruction and other purposes which, at the schools' discretion will benefit students and improve the instructional program beyond the level normally permissible through only the regular allotment; provided further that funds and positions of the School Priority Fund are divided into three parts as follows: For fiscal year 1983-84, the Instructional Resource Augmentation (IRA) part which includes 527 positions and \$12,938,502, the Elementary Fund which includes \$2,173,550, and the Secondary Fund which includes \$1,852,500; and for fiscal year 1984-85, the Instructional Resource Augmentation (IRA) part which includes 527 positions and \$12,935,708 and the combined Elementary and Secondary Funds which include \$3,255,120; provided further that as used in this section "enrollment" shall mean student enrollment in the regular schools with each regular student and each special student being counted as one; provided further that the elementary and secondary funds shall be used for

purchase of supplies, textbooks, equipment and services, and the IRA positions shall be used to meet the unique needs of each school; provided further that the superintendent shall allot the elementary and secondary funds to the districts based on elementary and secondary enrollments, respectively; provided further that the district superintendents may withhold up to seven per cent of their district allotments of elementary and secondary funds for a reserve to be used for such purposes as unforeseen enrollment increases, compliance with comparability requirements, emergency school need for funds, and special school projects that directly benefit the student; provided further that the district superintendent, after deducting the district reserve, shall allot the balance of the elementary and secondary funds to the elementary and secondary schools based on elementary and secondary enrollments, respectively; provided further that the 482 teacher and 45 educational assistant IRA positions shall be allotted to the elementary schools using enrollment as a guide, striving for equity, as opposed to equality, in the distribution of those positions; provided further that the principals shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the use of funds and positions; provided further that while the schools shall be given latitude and discretion to determine their needs and priorities, and while the program shall be implemented without imposing undue amounts of paperwork and red tape on the schools, the superintendent shall still assure sound planning, control, and accountability by developing and implementing proper planning procedures and follow-up accountability reports; and provided further, that the principals shall submit their plans for use of the funds and positions to their district superintendents who shall review the plans for conformance with departmental policies and regulations."

(62) By amending Section 30 to read:

"SECTION 30. Provided that of the appropriation to Other Regular Instruction (EDN 106), \$2,193,113 in fiscal year 1983-84 and \$2,858,347 in fiscal year 1984-85, shall be expended by the Early Provision for School Success Program to include, but not be limited to, the aiding of students in the development of basic skills and life skills; provided further, that the department shall submit an evaluation of this program to the Legislature at least twenty days prior to the convening of the 1985 Regular Session."

(63) By adding a new Section to read:

"SECTION 30A. Provided that of the general fund appropriation to Other Regular Instruction, Department of Education (EDN 106), the sum of \$70,488 shall be used in fiscal year 1984-85 for additional waivers for summer school tuition."

(64) By adding a new Section to read:

“SECTION 30B. Provided that of the general fund appropriation to Other Regular Instruction (EDN 106), the sum of \$150,674 (of which not less than \$28,000 shall be for the Hawaii Student Science Training Program located in Hilo) shall be used fund the Summer Program for the Enhancement of Basic Education (SPEBE); provided further that the department shall develop the program using the Hawaii Student Science Training Program as a model; provided further that the department shall ensure that the summer learning enhancement centers funded under this program be located, as feasible, throughout the State; provided further, that these summer learning enhancement centers shall provide interested and able high school students with opportunities during the summer to experience the application of mathematics, science, or the language arts in the professional world; provided further that the department shall ensure that, in establishing and implementing this program, the cooperation and support of higher education institutions, public agencies, and private business and industry are integrated into the program; provided further that the procedures for selecting students to participate in the program shall include the involvement of appropriate teachers; provided further that the department shall ensure that the planning of the program is completed and that implementation begin in June, 1985; provided further that the department shall submit a progress report to the Legislature twenty days prior to the convening of the 1985 Regular Session.”

(65) By amending Section 31 to read:

“SECTION 31. Provided that of the general fund appropriation for fiscal year 1984-85 to Compensatory Education (EDN 108) \$3,839,604 shall be expended by the Department of Education for its programs for alienated students and its “alternative” education programs including, but not limited to, the Comprehensive School Alienation Program (CSAP), the Storefront School, the Nanakuli Learning Center, the Maui Alternative Program, the Kauai Alternative Program, the Kona Hoopono-pono, Hilo Hukiliki, the Nanakuli Interest Curriculum, the Kailua Learning Center, the Hilo High Alternative Program, the Hawaii Alternative Program, the Honolulu Alternative Program, and the Leeward Alternative Program; provided further that the Department of Education shall evaluate the CSAP programs to integrate those programs for alienated students it considers successful and efficient into a single, comprehensive alienation program; and provided further that before any funds are appropriated for programs for alienated students under EDN 108 in fiscal biennium 1985-87, the Department of Education shall submit to the Legislature its implementation plan to integrate the various programs for alienated students funded through the department, at least sixty days prior to the convening of the 1985 Regular Session.”

(66) By adding a new Section to read:

"SECTION 31A. Provided that of the general fund appropriation for Compensatory Education, Department of Education (EDN 108), the sum of \$331,443 shall be used in fiscal year 1984-85 for purchases of services; provided further, that in contracting with agencies under a purchase of service agreement, the Department of Education shall ensure that the services being provided are an extension of program services which are not presently offered by the Department of Education."

(67) By adding a new Section to read:

"SECTION 31B. Provided that of general fund appropriation for School Administration, Department of Education (EDN 203), the sum of \$129,350 shall be used in fiscal year 1984-85 to fund five (5.00) full-time temporary vice principal positions for Hilo High School, Waiakea High School, Baldwin High School, Maui High School, and Kahuku High and Elementary School."

(68) By adding a new Section to read:

"SECTION 31C. Provided that of the general fund appropriation for Instructional Development, Department of Education (EDN 205), the sum of \$60,000 shall be used in fiscal year 1984-85 in conjunction with the gift of 100 computers from private industries."

(69) By adding a new Section to read:

"SECTION 31D. Provided that of the general fund appropriation to Counseling, Department of Education (EDN 206), the sum of \$212,016 shall be used in fiscal year 1984-85 to fund an additional fourteen (14.00) full-time temporary positions for the intermediate schools."

(70) By adding a new Section to read:

"SECTION 31E. Provided that of the general fund appropriation for fiscal year 1984-85 to Student Activities (EDN 207), \$25,000 shall be used for out-of-state travel, and authorized by the superintendent; provided further that the Department of Education shall submit a report to the Legislature detailing all travel expenses in Student Activities not less than twenty days prior to the convening of the 1985 Regular Session."

(71) By adding a new Section to read:

"SECTION 31F. Provided that of the general fund appropriation for Student Activities, Department of Education (EDN 207), the sum of \$43,682 shall be used in fiscal year 1984-85 for purchases of service."

(72) By amending Section 36 to read:

"SECTION 36. Provided that in fiscal year 1984-85 the resource teachers in reading, art, music, and physical education assigned to each district office under District Administration (EDN 304) may be utilized at the discretion of the district superintendent, where feasible, to lower the pupil-teacher ratio in kindergarten and grades one through three; and provided further that all the remaining resource and other district-level teachers may be utilized at the discretion of the district superintendent for the Gifted and Talented Program."

(73) By adding a new Section to read:

"SECTION 37A. Provided, that of the appropriations made to the State Administration program (EDN 303) for fiscal year 1984-85, the Department of Education shall expend such resources as may be necessary to present, as part of the 1985-87 executive budget submission, the lower education budget and six-year program and financial plans for each of the following programs if recommended for funding: (a) REGULAR ELEMENTARY INSTRUCTION; (b) under regular secondary instruction, the programs of MATHEMATICS, LANGUAGE ARTS, SCIENCE, FOREIGN LANGUAGE, SOCIAL STUDIES, HEALTH, PHYSICAL EDUCATION, ART, MUSIC, VOCATIONAL-TECHNICAL EDUCATION, and PRACTICAL ARTS; (c) under other regular instruction, the programs of SCHOOL PRIORITY FUND, EARLY PROVISIONS FOR SCHOOL SUCCESS, COMPUTERS IN EDUCATION, INTENSIVE BASIC SKILLS, HAWAII ENGLISH PROGRAM, HAWAIIAN STUDIES, ARTISTS-IN-THE-SCHOOLS, ENVIRONMENTAL EDUCATION, ARTMOBILE, ROTC, DRIVER EDUCATION, LAHAINALUNA BOARDING DEPT., SUMMER SCHOOL PROGRAM, HOME/HOSPITAL INSTRUCTION, ASIAN/EUROPEAN/PACIFIC LANGUAGES, ECIA CHAPTER 2 BLOCK GRANT, NANAIKAPONO COMMUNITY/SCHOOL MUSEUM, and LEEWARD READING PROGRAM; (d) EXCEPTIONAL CHILD PROGRAM; (e) COMPENSATORY EDUCATION; (f) under instructional administration and support, the programs of SCHOOL ADMINISTRATION, INSTRUCTIONAL MEDIA, INSTRUCTIONAL DEVELOPMENT, COUNSELING, STUDENT ACTIVITIES, and PSYCHOLOGICAL AND SCHOOL SOCIAL WORK SERVICES; (g) under institutional administration and support, the programs of STATE ADMINISTRATION, DISTRICT ADMINISTRATION, SCHOOL FOOD SERVICES, SAFETY AND SECURITY SERVICES, PHYSICAL PLANT OPERATIONS AND MAINTENANCE, and MULTIPURPOSE FACILITIES; and (h) under public service, the programs of ADULT EDUCATION and PUBLIC LIBRARIES; provided further, that the financial and program information required by sections 37-69(c)(3) and 37-69(d), Hawaii Revised Statutes, shall be presented for each of the preceding programs which

are capitalized if recommended for funding in the 1985-87 biennium and any other programs recommended for funding; provided further, that unless capital investment costs can be clearly assigned to a single program, such costs shall be budgeted under the multipurpose facilities program; and provided further, that the new program structure shall be displayed to the 1985 Legislature and implemented in fiscal year 1986-87."

(74) By adding a new Section to read:

"SECTION 37B. Provided that of the general fund appropriation in fiscal year 1984-85 to Instructional Development, Department of Education (EDN 304), the sum of \$3,000 shall be used to fund a League Executive Secretary, for the Big Island Interscholastic Federation."

(75) By adding a new Section to read:

"SECTION 37C. Provided that of the general fund appropriation for District Administration, Department of Education (EDN 304), the sum of \$481,193 shall be used in fiscal year 1984-85 to fund the twenty-two (22.00) temporary district resource teachers scheduled for termination by the department at the end of the 1983-84 fiscal year; provided further that in the event of general fund restrictions imposed by the Governor or the Department of Education, the funds for district resource teachers for art, music, and physical education provided in this section shall be the last to be affected by such restrictions."

(76) By adding a new Section to read:

"SECTION 37D. Provided that of the general fund appropriation for Public Libraries (EDN 407), the sum of \$190,000 shall be used in fiscal year 1984-85 to fund the hiring of student help for the public libraries."

(77) By adding a new Section to read:

"SECTION 38A. Provided that of the general fund appropriation for the Instruction-University of Hawaii, Manoa (UOH 101), the sum of \$300,000 in fiscal year 1984-85 shall be expended for the College of Engineering Computer Enhancement Program."

(78) By adding a new Section to read:

"SECTION 38B. Provided that of the general funds appropriated for fiscal year 1984-85 for Instruction-University of Hawaii, Manoa (UOH 101), the sum of \$95,000 shall be used to pay for salary raises for graduate assistants; provided further that such pay raises shall be adjusted on July 1, 1984 and January 1, 1985 equivalent to the pay raises stipulated for the collective bargaining units on April 1, 1984 and January 1, 1985."

(79) By adding a new Section to read:

“SECTION 38E. Provided that of the general fund appropriation for the Organized Research-University of Hawaii, Manoa (UOH 102), the sum of \$250,000 shall be expended by the Pacific International Center for High Technology Research for operation and research projects.”

(80) By adding a new Section to read:

“SECTION 38F. Provided that of the general fund appropriation for the Organized Research-University of Hawaii, Manoa (UOH 102), the sum of \$60,000 in fiscal year 1984-85 shall be expended by the Water Resources Center for research on migration and degradation of contaminants in ground water.”

(81) By adding a new Section to read:

“SECTION 38G. Provided that of the general fund appropriation for the Organized Research-University of Hawaii, Manoa (UOH 102), the sum of \$50,000 in fiscal year 1984-85 shall be expended by Pesticides Hazard Assessment Project of the Pacific Biomedical Research Center for State matching funds to conduct pesticides research studies.”

(82) By adding a new Section to read:

“SECTION 38H. Provided that of the general fund appropriation for the Organized Research-University of Hawaii, Manoa (UOH 102), the sum of \$300,000 in fiscal year 1984-85 shall be expended by Hawaii Natural Energy Institute for energy research and development in Hawaii.”

(83) By adding a new Section to read:

“SECTION 38I. Provided that of the general fund appropriation for the Academic Support, University of Hawaii-Hilo (UOH 214), the sum of \$50,000 shall be expended for the Student Development Center activities.”

(84) By adding a new Section to read:

“SECTION 39A. Provided that Instruction, Maui Community College (UOH 501) shall prepare and submit a comprehensive evaluation report on its educational outreach program for Molokai including, but not limited to, such areas as the accomplishment of program goals and objectives based on the established measures of program effectiveness, an evaluation of the curriculum and student achievement, an analysis of program costs and long range plans for the program including revised needs assessment studies and resource requirements; provided further that such report shall be submitted to the Legislature twenty days prior to the convening of the 1985 Regular Session.”

(85) By amending Section 40 to read:

“SECTION 40. Provided, that the general fund appropriations for the PPB level IV Institutional support programs include the following amounts for electricity costs:

	FY 1983-84	FY 1984-85
UOH-106	\$7,760,929A 72,872,575KwH \$.1065	\$6,990,607 69,489,136KwH \$.1006
UOH-216	\$741,427A 5,524,792KwH \$.1342	\$802,254A 5,506,204KwH \$.1457
UOH-305	\$519,420A 4,386,994KwH \$.1184	\$511,540A 4,425,087KwH \$.1156
UOH-315	\$204,532A 1,631,034KwH \$.1254	\$250,335A 2,020,459KwH \$.1239
UOH-325	\$469,858A 3,945,073KwH \$.1191	\$418,933A 3,559,328KwH \$.1177
UOH-335	\$61,103A 531,790KwH \$.1149	\$59,689A 551,145KwH \$.1083
UOH-505	\$204,092A 1,295,821KwH \$.1575	\$195,507A 1,254,051KwH \$.1559
UOH-605	\$352,801A 1,812,953KwH \$.1946	\$314,002A 1,739,621KwH \$.1805
UOH-706	\$25,151A 210,994KwH \$.1192	\$25,901A 217,475KwH \$.1191

As used in this section “KwH” means kilowatt hours. Provided further, that the electricity rates and kilowatt usage as identified herein shall be used as a reference base by the University and the Legislature in determining any deficits in funding for electricity; provided further, that the University shall study ways of lowering its electricity usage and shall submit to the Legislature a report describing the University’s actual usage as it compares to the original projection and an explanation of variances and suggested recommendations for electricity conservation; provided further, that such report shall be submitted to the Legislature twenty days prior to the convening of the 1984 and 1985 Regular Session.”

(86) By adding a new Section to read:

"SECTION 43A. Provided that of the general fund appropriation for the Statewide Planning Coordination for Post-Secondary Education, University of Hawaii (UOH 905), the Post-Secondary Commission shall lapse excess funds from each year of the fiscal biennium 1983-85 for the Western Interstate Commission for Higher Education activities."

(87) By amending Section 45 to read:

"SECTION 45. Provided that of the general fund appropriation for Performing and Visual Arts Events, Department of Accounting and General Services (AGS 881), the sum of \$857,276 shall be used in fiscal year 1984-85 for purchases of service authorized in this Act."

(88) By adding a new Section to read:

"SECTION 45A. Provided that of the general fund appropriation to the Performing and Visual Arts Events, Department of Accounting and General Services (AGS 881), for project grant fund in fiscal year 1984-85, the following amounts shall be provided to the following organizations: Kalihi-Palama Culture and Arts, \$25,000; Waianae Coast Culture Arts, \$21,500; provided further that of the amounts designated in Part IVA, the following amounts for the designated organizations shall be funded through project grant funds in fiscal year 1984-85: Hawaii Theater for Youth, \$23,863; Hawaii State Dance Council, \$10,500; Polynesian Voyaging Society, \$25,000; provided further, that such funds designated from the project grant fund shall be in addition to any purchase of service appropriation provided for such organizations in fiscal year 1984-85; provided further that designation of project grant funds in this section shall not preclude such agencies designated from receiving additional project grant funds."

(89) By adding a new Section to read:

"SECTION 50A. Provided that of the general fund appropriation for fiscal year 1984-85 for the Intake Service Center, Department of Social Services and Housing (SOC 394), \$120,000 in general funds shall be used to continue the youth development project; and provided further that the Department of Social Services and Housing shall submit a report on the project to the Legislature at least twenty days prior to the convening of the 1985 Regular Session."

(90) By adding a new Section to read:

"SECTION 51A. Provided that of the general fund appropriation for the Intake Service Center, Department of Social Services and Housing (SOC 394), the sum of \$20,000 shall be used in fiscal year 1984-85 to provide for

software maintenance (\$10,000) and to acquire a software package (\$10,000) that will increase the data storage and retrieval capabilities.”

(91) By adding a new Section to read:

“SECTION 51B. Provided that of the general fund appropriation to the Hawaii Youth Correctional Facility, Department of Social Services and Housing (SOC 401), the sum of \$15,900 shall be used in fiscal year 1984-85 to improve vocational education programs.”

(92) By adding a new Section to read:

“SECTION 51C. Provided that of the general fund appropriation to the Hawaii Youth Correctional Facility, Department of Social Services and Housing (SOC 401), the sum of \$157,118 shall be used in fiscal year 1984-85 to expand and improve the livestock and agricultural program.”

(93) By adding a new Section to read:

“SECTION 51D. Provided that of the general fund appropriation to the Halawa High Security Facility, Department of Social Services and Housing (SOC 402), the sum of \$6,450 shall be used in fiscal year 1984-85 to improve vocational education programs.”

(94) By adding a new Section to read:

“SECTION 51E. Provided that of the general fund appropriation to the Kulani Correctional Facility, Department of Social Services and Housing (SOC 403), the sum of \$54,618 shall be used in fiscal year 1984-85 to improve vocational education programs.”

(95) By adding a new Section to read:

“SECTION 51F. Provided that of the general fund appropriation to the Kulani Correctional Facility, Department of Social Services and Housing (SOC 403), the sum of \$107,652 shall be used in fiscal year 1984-85 to expand and improve the livestock and agricultural programs.”

(96) By adding a new Section to read:

“SECTION 51G. Provided that of the general fund appropriation for Oahu Community Correctional Center, Department of Social Services and Housing (SOC 407), the sum of \$128,139 shall be used in fiscal year 1984-85 for purchases of service for women’s pre-release and furlough program.”

(97) By adding a new Section to read:

“SECTION 51H. Provided that of the general fund appropriation for fiscal year 1984-85 for Oahu Community Correctional Center (SOC 407),

\$20,000 shall be used for repairs and maintenance of two watch towers located at the front gate and rear fence of Keehi Annex."

(98) By adding a new Section to read:

"SECTION 51I. Provided that of the general fund appropriation for the Oahu Community Correctional Center, Department of Social Services and Housing (SOC 407), the sum of \$50,000 shall be used in fiscal year 1984-85 to purchase small tools, equipment and for overtime payments for inmate supervision in order to expand the Inmate Community Service Program."

(99) By adding a new Section to read:

"SECTION 51J. Provided that of the general fund appropriation to the Oahu Community Correctional Center, Department of Social Services and Housing (SOC 407), the sum of \$79,018 shall be used in fiscal year 1984-85 to improve vocational education programs at the Women's Correctional Facility."

(100) By adding a new Section to read:

"SECTION 51K. Provided that the Corrections Division, Department of Social Services and Housing, shall submit a report twenty days prior to the convening of the 1985 Regular Session which shall contain:

1. All overtime costs incurred in fiscal year 1982-1983 and 1983-1984
2. Reasons for these overtime costs
3. Procedures by which such overtime costs are authorized, and
4. Solutions/alternatives to curb these overtime costs."

(101) By adding a new Section to read:

"SECTION 53A. Provided that the bank examiner, in conjunction with the Thrift Guaranty Corporation of Hawaii, shall prepare and submit, prior to the convening of the Regular Session of 1985, a report on (1) on the present status of the guarantee fund established by section 408A-10, Hawaii Revised Statutes; (2) the potential aggregate liability of the Thrift Guaranty Corporation of Hawaii to depositors of its members that have been adjudicated bankrupt or have been placed in receivership; and (3) the feasibility and advisability of the Thrift Guaranty Corporation borrowing funds from the State pursuant to 408A-6(a)(5), Hawaii Revised Statutes."

(102) By adding a new Section to read:

"SECTION 53B. Provided that of the general fund appropriation for fiscal year 1984-85 for the Insurance Services Program (CCA 106), \$50,000 shall be used to contract for a comprehensive review of the Hawaii No-Fault Insurance Law; provided further that the Department shall submit a report to

the Legislature not less than twenty days prior to the convening of the 1985 Regular Session."

(103) By adding a new Section to read:

"SECTION 53C. Provided that of the general fund appropriation for Legal Assistance in Criminal Actions, Department of Budget and Finance (BUF 151), the sum of \$336,048 shall be expended by the Office of Public Defender for hiring of temporary personnel and for other operating costs in response to increased trial workloads."

(104) By adding a new Section to read:

"SECTION 53D. Provided that of the general fund appropriation for Legal Assistance in Criminal Actions, Department of Budget and Finance (BUF 151), the sum of \$200,000 shall be expended for salary increases for the Office of the Public Defender in fiscal year 1984-85."

(105) By adding a new Section to read:

"SECTION 53E. Provided that of the general fund appropriation for fiscal year 1984-85 for the Department of Social Services and Housing, \$38,519 shall be used to continue the Commission on the Status of Women (SOC 888); provided further that the Commission on the Status of Women shall submit a report twenty days prior to the convening of the Regular Session of 1985 which shall contain:

- (1) A two-year program plan detailing the Commission's goals, objectives, and activities
- (2) An analysis of the Commission's functional relationship to other agencies and an identification of any duplication of responsibilities and activities, and
- (3) An organizational structure and plan to carry out its goals, objectives, and activities."

(106) By adding a new Section to read:

"SECTION 55A. Provided that of the general fund appropriation for Office of the Governor (GOV 100), the sum of \$63,702 shall be used in fiscal year 1984-85 for purchases of service as authorized in this Act."

(107) By adding a new Section to read:

"SECTION 60A. Provided that of the general fund appropriation for fiscal year 1984-85 for the Office of the Lieutenant Governor (LTG 100), \$61,500 shall be used for voter notification costs, \$100,000 shall be used for the use of census tract/block designation data for reapportionment purposes, and

\$13,500 shall be used for the 1985 National Association of Secretaries of State's Executive Committee meeting."

(108) By adding a new Section to read:

"SECTION 63A. Provided that on July 1, 1984, the functions and staff of the Hawaii Institute for Management and Analysis in Government (HIMAG) shall be transferred from the Department of Budget and Finance (BUF 101) to the Department of Personnel Services (PER 102) to better utilize state resources and to improve the coordination of programs relating to statewide training in management and government analysis; provided further that the HIMAG shall vacate the property at 3860 Old Pali Road and that property shall be occupied and used by the High Technology Development Corporation."

(109) By adding a new Section to read:

"SECTION 64A. Provided that of the general fund appropriation for Other Policy Development and Coordination, Office of the Governor (GOV 102), \$60,000 shall be used in fiscal year 1984-85 by the papaya industry for the research, development and implementation of alternatives to EDB treatment of papaya."

(110) By adding a new Section to read:

"SECTION 64B. Provided that of the general fund appropriation for Other Policy Development and Coordination, Office of the Governor (GOV 102), the sum of \$178,657 shall be used for purchases of service as authorized in this Act; provided further that of the \$178,657 provided in this section, \$78,150 shall be for Molokai Agriculture Farm Project; provided further that the funds shall be made available to the University of Hawaii, College of Tropical Agriculture and Human Resources for the direct administration, management, and operation of the Molokai Agriculture Farm project facilities."

(111) By amending Section 66 to read:

"SECTION 66. Provided that the general fund appropriation to the Supporting Services, Revenue Collection Program (TAX 107) includes \$40,000 for each year of the fiscal biennium 1983-85 for the requirements of litigated tax claims pursuant to Section 40-35, Hawaii Revised Statutes, and \$1,687,619 in fiscal year 1984-1985 for Phase IIB of the Automated Comprehensive Net Income Tax System Project."

(112) By adding a new Section to read:

"SECTION 70A. Provided that of the general fund appropriation for fiscal year 1984-1985 for Legal Services (ATG 100), \$986,110 shall be used to pay for litigation expenses and the hire of special deputies incurred by all state

agencies, departments, and programs; provided further that the funds appropriated for litigation expenses and the hire of special deputies shall not be used for any other purpose; provided further that all funds not expended or encumbered specifically for litigation expenses by June 30, 1985 shall lapse into the general fund; provided further that the Department of the Attorney General shall not bill any general funded program of another state department or agency for litigation expenses and moneys for the hire of special deputies; provided further that the Attorney General shall submit an accountability report on all expenses incurred related to litigation and the hire of special deputies to the Legislature ten days after every quarter of each fiscal year; provided further that the accountability report shall indicate the litigation expenses incurred and the moneys spent for the hire of special deputies for each general funded programs of all state departments and agencies; provided further that the report shall reflect the total amount expended for litigation expenses and hire of special deputies by completed and pending cases; and provided further that if such reports exhibit sound planning, control, and accountability on the Attorney General's behalf based on the administrative policies established by the Attorney General, the Legislature shall appropriate a justifiable amount to the Department of the Attorney General, exclusively for litigation expenses and the hire of special deputies for general funded programs of all state departments and agencies.

Provided further that the Department of the Attorney General shall establish a memorandum of agreement with all state departments and agencies on the administrative policies established by the Department of the Attorney General regarding litigation expenses and the hire of special deputies.

Provided further that the 1985-87 biennial budget shall reflect the administrative policies and agreement regarding the accountability for litigation expenses and the hire of special deputies; provided further that the Department of the Attorney General shall report to the Legislature on the administrative policies and agreement established for the accountability for litigation expenses and the hire of special deputies and shall submit legislation necessary to the Regular Session of 1985."

(113) By adding a new Section to read:

"SECTION 70B. Provided that of the general fund appropriation for fiscal year 1984-85 for legal Services, Office of the Attorney General (ATG 100), the sum of \$390,000 shall be for the Victim Witness Security Program and allotted to the Office of the Prosecuting Attorney of the respective counties in the following amounts: \$150,000 to the City and County of Honolulu; \$90,000 to the county of Hawaii; \$75,000 to the County of Maui; and \$75,000 to the county of Kauai."

(114) By adding a new Section to read:

"SECTION 70C. Provided that of the general fund appropriation for fiscal year 1984-85 for Legal Services (ATG 100), \$175,000 shall be for the Hawaii Witness Security and Protection Program; and provided further that the funds shall be spent in compliance with section 28-101, Hawaii Revised Statutes."

(115) By adding a new Section to read:

"SECTION 70D. Provided that of the general fund appropriation for the Office of the Attorney General (ATG 100), the sum of \$400,000 shall be expended in fiscal year 1984-85 for salary increases for Deputy Attorney Generals."

(116) By adding a new Section to read:

"SECTION 70E. Provided that of the general fund appropriation for fiscal year 1983-84 to the Office of Attorney General (ATG 100), the sum of \$6,795 shall be used by the Juvenile Justice Interagency Board to pay for travel and per diem costs."

(117) By amending Section 71 to read:

"SECTION 71. Provided that of the general fund appropriation for fiscal biennium 1983-1985 to Electronic Data Processing Service (BUF 131), \$437,335 for fiscal year 1983-1984 and \$387,372 for fiscal year 1984-1985 shall be for services provided to the Legislative Reference Bureau by the Electronic Data Processing Division; provided further that the Electronic Data Processing Division shall provide all of the electronic data processing services required by the Legislative Reference Bureau."

(118) By adding a new Section to read:

"SECTION 71A. Provided that of the general fund appropriation for Workforce Attraction, Selection, Classification and Effectiveness, Department of Personnel Services (PER 102), \$79,702 shall be used for five positions in fiscal year 1984-1985 to establish a Centralized Workers' Compensation Program Unit for the State; provided further that the Department of Personnel Services shall submit a status report to the 1985 Legislature of the impact that the Centralized Workers' Compensation Unit has had on reducing the cost of workers' compensation claims filed against the State in fiscal year 1984-1985."

(119) By adding a new Section to read:

"SECTION 71B. Provided that of the general fund appropriation to Communication (AGS 263), \$194,195 for fiscal year 1984-85 shall be used for the rate increase in telephone cost and for no other purpose."

(120) By adding a new Section to read:

"SECTION 71C. Provided that of the general fund appropriation for fiscal year 1984-85 for Capitol Building Security (ATG 801), \$10,896 shall be for one temporary Security Attendant I to secure the Iolani Palace grounds."

SECTION 5. Part IV, Section 78, of Act 301, Session Laws of Hawaii 1983, is amended to read:

"SECTION 78. Provided that the program I.D. assigned to each organization in Section 72 shall designate the expending agency for the appropriations in that section; provided that the designated expending agency is authorized to delegate to other state agencies the expenditure of funds when it is determined by such agency that it is more advantageous to do so."

SECTION 6. Act 301, Session Laws of Hawaii 1983, is amended by adding a new part to read:

"PART IVA. PURCHASES OF SERVICE

SECTION 79A. **Purchases of Service.** The sums of money appropriated or authorized in Part II of this Act for fiscal year 1984-85 for purchases of service shall be made in accordance with the standard that the services of the private programs shall yield direct benefits to the public and accomplish public purposes. The private organizations to be contracted by the designated expending agency in Part II of this Act are listed below:

	General Funds	Federal Funds
A. EMPLOYMENT		
SOC 802		
Hawaii Centers for Independent Living	200000	0
Hawaii Services on Deafness	24501	0
Maui Rehabilitation Center, Work Activity	72803	0
Molokai Rehabilitation Facility	35390	0
LBR 902		
North Shore Career Training Program	18000	0
B. HEALTH		
HTH 151		
Hemophilia Foundation of Hawaii	163000	0
HTH 170		
Kapiolani/Children's Medical Center, Hawaii Poison Center	149120	0
HTH 185		
Hawaii Planned Parenthood-Family Plan- ning Services, West Hawaii, Maui, Kauai	278066	0

	General Funds	Federal Funds
Hale Ho'ola Hou-Family Planning Services	30335	63000
Kapiolani/Children's Medical Center-Family Planning Services	42468	76408
Molokai General Hospital-Family Planning	14518	24753
Queen's Medical Center, Queen Emma Clinics Family Planning Services	47744	97700
The Bay Clinic-Family Planning Services, East Hawaii	23083	143786
Waikiki Health Center-Family Planning Services	0	65600
HTH 401		
Alcohol Rehabilitation Services of Hawaii, Inc. Residential	79222	32783
Alcohol Rehabilitation Services of Hawaii, Inc. Outpatient	12919	12081
Alu Like, Inc., Hale Ola o Ho'opakolea	64643	0
Alu Like, Inc., Outreach Referral, Hawaii Island Center	3893	20807
Awareness House, Inc., Drug Treatment	55042	35640
Bernard Lee	13894	0
Big Island Council on Alcoholism	29216	25000
Catholic Social Service, Bilingual/Bicultural Counseling Program, Kalihi-Palama	73145	0
Catholic Social Service, Bilingual/Bicultural Counseling Program, Windward Oahu	13338	0
Catholic Social Service, Integrated Alcohol Unit, Community Treatment for Substance Abusers, Central Oahu	22191	22416
Catholic Social Service, Integrated Alcohol Unit, Noncrisis Intervention, Diamond Head	36616	0
Central Oahu Senior Day Care Association, Inc.	16330	33670
Central Oahu Youth Services Association, Community Treatment, Unit Cost	10810	10810

	General Funds	Federal Funds
Central Oahu Youth Services Association, Emergency Crisis Intervention, Nonunit Cost	0	36600
Central Oahu Youth Services Association, Non-crisis Intervention, Unit Cost	0	12200
Central Oahu Youth Services Association, Substance Abuse, Nonunit Costs	45000	0
Child And Family Services-Central Oahu Respite Day Care	0	11400
Child and Family Services-Community Treatment for Victims of Violence, Leeward Oahu	6300	0
Child and Family Services-Family Friends Community Family Services and Counseling, Kauai	1530	15470
Child and Family Services-Hale Lokahi, Prevention Intervention Services	19562	17923
Child and Family Services-Hale Lokahi, Prevention and Early Intervention Treatment Services	36528	20772
Child and Family Services-Hale O'ulu, Community Day Treatment	35595	18405
Child and Family Services-Hale O'ulu, Substance Abuse	0	17807
Child and Family Services-Individual and Family Services for Special Education Students, Windward Oahu	61768	0
Child and Family Services, Kalihi-Palama School Program	25000	0
Child and Family Services, Leeward Oahu Community Respite Day Care, Leeward Oahu	3940	9560
Community Consultant Services of Hawaii, Inc. Alcohol, Drug Abuse, and Mental Health Services, Kalihi Palama	8317	25223
Community Consultant Services of Hawaii, Inc., Child Abuse Services	9864	0
Community Consultant Services of Hawaii, Inc., Special Education Services, Leeward Oahu	14519	0

	General Funds	Federal Funds
Community Mental Health Services for Children and Youth, Central Oahu	31122	0
Courts and Corrections Services	52821	0
Danilo E. Ponce, M. D. Inc., Communi- ty-based Services, Mental Health	10602	0
Drug Addiction Services of Hawaii, Inc., Community Treatment, Diamond Head	0	25211
Drug Addiction Services of Hawaii, Inc., Community Treatment for Women, Diamond Head	0	11334
Drug Addition Services of Hawaii, Inc., Drug Detoxification and Methadone Maintenance Services, Kauai	6000	0
Drug Addiction Services of Hawaii, Inc., Drug Detoxification and Methadone Maintenance Services, Oahu	102100	50000
Families and Friends of Schizophrenics, Windward Oahu	1240	0
Families and Friends of Schizophrenics, Diamond Head	1200	0
Family Systems Support	9500	0
Hana Like Home Visitor Program	74000	0
Hawaii Alcoholism Foundation, Inc., Sand Island Halfway House	23811	26959
Hawaii Committee on Alcoholism, Com- munity Treatment Services for Women, Diamond Head	5666	0
Hawaii Committee on Alcoholism, Alco- hol Prevention Education Services, Diamond Head	6725	0
Hawaii Council of Churches, Kauai In- terfaith Task Force, Helpline Kauai	14553	12306
Hawaii Council of Churches, Kauai In- terfaith Task Force, Shelter Project	59901	0
Hawaii County Economic Opportunity Council	16435	0
Hawaii Island YWCA, Sexual Assault Support Services	28022	26000

	General Funds	Federal Funds
Hilo Association to Help Retarded Citizens, dba Hilo Vocational Rehabilitation Center	2528	10000
Hilo Transitional Services, Community based Residential Care	21654	19079
Honolulu Medical Group Research and Education Foundation, Honolulu Gerontology Program	15687	1592
John Howard Association, Waianae Rap Center	67996	41004
John Howard Association, Waianae Rap Center Noncrisis services	0	22393
John R. Durocher, M. D.	21668	0
Kapiolani/Children's Medical Center, Hawaii Family Stress Center	126000	0
Kapiolani/Children's Medical Center, Hawaii Family Stress Center, Child Respite Care	26000	0
Kapiolani/Children's Medical Center, Hawaii Family Stress Center, Preventive and Intervention Services	35079	0
Kapiolani/Children's Medical Center, Hawaii Family Stress Center, Teenage Services	27000	0
Kapiolani/Children's Medical Center, Hilo Family Support Services	3300	10000
Kapiolani/Children's Medical Center, Kona Family Support Services	4000	6000
Kapiolani/Children's Medical Center, Sex Abuse Treatment Center	200000	0
Kona Association for Retarded Citizens, dba Kona Krafts, Outpatient Mental Health Services	0	6472
Kona Crisis Center	0	7600
Lanakila Rehabilitation Center, Inc., Mental Health Services	11722	0
Lynda Howlett, M. D., Inc., Children's Psychiatric Services, Windward Oahu	31218	0
March of Dimes-Primary Prevention	0	40324

	General Funds	Federal Funds
Mark Stitham, M. D. Ltd., Diagnostic Services for Children and Adults, Kalihi Palama	34591	0
Mark Stitham, M. D. Ltd., Community Psychiatric Treatment for Adults, Kalihi- Palama	8892	0
Maui Family Reunion, Inc., Family Cri- sis Services	23000	0
Maui Kokua Services, Inc., Aloha House, Rehabilitative Care, Substance Abuse Treatment	13445	67378
Maui Kokua Services, Inc., Aloha House, Inc., Emergency Intervention and Temporary Shelter Services	71850	0
Maui Kokua Services, Inc., Aloha House, Inc., Rehabilitation Detoxification Treatment Services	13152	0
Maui Kokua Services, Inc., Community First Response Program	26211	51468
Maui Kokua Services, Inc., Crisis Inter- vention and Rehabilitative Care	62173	0
Maui Kokua Services, Inc., Lokahi Pacif- ic Hale O Manao	30000	0
Maui Kokua Services, Inc., Maunaolu Youth Residential Shelter, Inc., Outreach Treatment Services	22503	0
Maui Kokua Services, Inc., Maunaolu Youth Residential Shelter, Inc., Tempo- rary Crisis Youth Shelter Services	40000	0
Maui Kokua Services, Inc., Alu Like, Inc., Molokai	26878	0
Maui Kokua Services, Inc., Telephone Helpline Program	18828	0
Maui Kokua Services, Inc., Outpatient Services	75335	0
Parents Anonymous of Hawaii, Central Oahu	960	0
Parents Anonymous of Hawaii, Leeward Oahu	1375	0
Parents Anonymous of Hawaii	56153	0

	General Funds	Federal Funds
Po'ailani, Inc., Transitional Living	0	82722
Psychiatric Services, Children's Branch	40370	0
Psychiatric and Psychological Services, Hawaii Island	102318	0
Rema Media Services	4750	0
Ruth I. Kempe, M. D.	15000	0
Salvation Army Addiction Treatment Fa- cility Alcohol Treatment Program	106837	43325
Salvation Army Addiction Treatment Fa- cility Detoxification Unit	55236	71122
Salvation Army Addiction Treatment Fa- cility Eureka House	82923	53338
Salvation Army Addiction Treatment Fa- cility Noncrisis Intervention, Diamond Head	43889	0
Salvation Army Addiction Treatment Fa- cility Women's Way	44424	44435
Salvation Army Residential Treatment Facility For Children and Youth, Kula Kokua	15865	0
Salvation Army Residential Treatment Facility For Children and Youth, Pohai Pono	23762	5238
Salvation Army, Hilo Interim Home, Residential Transitional Living for Youth	0	9500
Salvation Army, Hilo Interim Home, Temporary Crisis Shelter for Youth	0	5225
Salvation Army, Partial Care, Kalihi-Pa- lama	50644	4336
Serenity House, Inc., Serenity House	12300	4744
Social Work Associates, Inc., Community Treatment Services	10000	0
St. Francis Hospital, Women's Alcohol Treatment Center	73783	22217
Susannah Wesley Community Center	70164	0
The Blessing House, Inc., Community Treatment Central Oahu	0	27889
The Blessing House, Inc., Community Treatment Leeward Oahu	0	9000

	General Funds	Federal Funds
The Blessing House, Inc., Noncrisis Intervention Leeward Oahu	7200	0
The Blessing House, Inc., Residential Care	20000	0
The House, Inc., Network Vocational Services	17738	44327
The House, Inc., Residential Services	0	49647
The House, Inc., The Duplex Supportive Living Project	35000	0
The Institute for Family Enrichment	12760	0
The People's Fund, Maluhia O Wahine	4800	0
University of Hawaii, Department of Psychiatry, Psychiatric Services for Waianae	40128	20000
Variety Club School	97000	0
Volunteer, Information, and Referral Services	206116	116587
WASS Associates in Human Relations Education	10000	0
Windward Unity Church	14519	0
Women Helping Women, Sexual Assault Crisis Center	17924	0
YMCA of Honolulu, Kalihi Branch, Alternatives for Youth	68000	0
YMCA of Honolulu, Nuuanu Branch, Life Values, Windward Oahu	35534	32923
YMCA of Honolulu, Nuuanu Branch, Life Values, Diamond Head	33000	0
YMCA of Honolulu, Nuuanu Branch, Life Values, Central Oahu	104450	0
YMCA of Honolulu, Nuuanu Branch, Detached Counselor Program, Outpatient Treatment Diamond Head	19860	0
YMCA of Honolulu, Nuuanu Branch, Prevention Education Services, Drinking/Driving Diamond Head	21067	0
YWCA of Kauai, Women's Center, Rape Crisis Team	2100	12900
YWCA of Kauai, Women's Shelter	4137	0

	General Funds	Federal Funds
Community Consultative Services of Hawaii Inc., Community Treatment for Children and Youth	11900	0
YMCA of Honolulu, Nuuanu Branch, Outpatient Treatment, Windward Oahu	34909	0
YMCA - Alternative for Youth, Unit Cost	0	22085
HTH 500		
Crippled Children's Society of Maui, In- fant and Child Development	58647	0
Easter Seal Society of Hawaii, Infant and Child Development	161889	0
Hilo Association to Help Retarded Citi- zens Services to Deaf, Blind, and Multi- ply Handicapped	29700	0
United Cerebral Palsy Association of Hawaii Infant Development	21687	0
Waianae Coast Day Care Center, Infant Development	89000	0
HTH 501		
Association for Retarded Citizens of Hawaii Day Activity	168706	0
Association for Retarded Citizens of Hawaii Prevocational Program	264688	0
Association for Retarded Citizens of Kauai Respite Care, Non Vocational So- cial Development Program	42000	0
Autistic Vocational Education Center, Prevocational Program	80000	0
Brantley Center Inc., Day Activity	11902	0
Brantley Center, Inc.	61680	0
Easter Seal Society of Hawaii, Inc., Day Activity	64800	0
Easter Seal Society of Hawaii, Inc., Re- spite Care	43479	0
Goodwill Vocational Training Centers Prevocational Program	65725	0
Hilo Association to Help Retarded Citi- zens, Prevocational Program	90498	0

	General Funds	Federal Funds
Hilo Association to Help Retarded Citizens, Community Residential and Respite Care	11629	0
Kona Association for Retarded Citizens, dba Kona Krafts, Prevocational Program	16536	0
Kona Association for Retarded Citizens, dba Kona Krafts, Work Activity Shelter	49413	0
Lanakila Rehabilitation Center, Inc., Day Work Activity	174611	0
Lanakila Rehabilitation Center, Inc., Day Activity	139112	0
Maui Association for Retarded Citizens, Day Activity	56106	0
Maui Association for Retarded Citizens, Leisure Day	98805	0
Maui Association for Retarded Citizens, Respite Care	12640	0
Maui Rehabilitation Center, Prevocational Training	39763	0
Opportunities for the Retarded Inc.	101115	0
Opportunities for the Retarded, Inc., Day Activity	70935	0
Rehabilitation Unlimited, Kauai, Day Work Activity	46513	0
Research Center of Hawaii Prevocational Program, Mentally Retarded	45502	0
Research Center of Hawaii, Day Activity	47204	0
Special Education Center of Oahu	75000	0
United Cerebral Palsy Association of Hawaii, Case Management	16784	0
HTH 801		
Kapiolani/Children's Medical Center Teen Intervention Program	32306	0
Kapiolani/Children's Medical Center Regional Perinatal Planning Program	62000	0
Pediatrics Arthritis Center of Hawaii	47204	0
HTH 907		
Kokua Kalihi Valley Clinic	53172	0
Waikiki Health Ctr-Primary Care	50558	0

	General Funds	Federal Funds
Episcopal Church of Hawaii, Refugee Project	0	13459
HTH 908		
St. Francis Hospital, Northern Koolau Community Health Education	54600	0
D. SOCIAL SERVICES		
SOC 111		
Boys Club of Honolulu	37500	0
Catholic Social Service, Paraprofessional Program	153368	21000
Catholic Social Service, Child Sexual Abuse Treatment Program	124972	22000
Central Oahu Youth Services Associa- tion, Inc.	0	13320
Child and Family Services, Shelter for Abused Spouses and Children	0	60284
Child and Family Services, Hale O'ulu	62630	0
Child and Family Services, Family Coun- seling Program, Kauai	48427	0
Child and Family Services, Family Coun- seling Program, Oahu	48150	0
Child and Family Services, Residential Services Program	0	239261
The Family Crisis Shelter, Inc.	0	60187
Family Services Center, Inc.	0	260922
Hale Hoolai, Inc.	0	32100
Hale Kipa, Inc. Runaway Youth Shelter	223681	0
Hale Kipa, Inc.-Transition House	0	107048
Hale Opio, Kauai Inc.,	0	135889
Hawaii Council of Churches, Job Prepa- ration Program	0	102482
Hawaii County Economic Opportunity Council Chore Services	0	13419
Hawaii County Economic Opportunity Council Day Care Services	0	49305
Hawaii County Office of Aging Chore Services	0	32258
Hilo Adult Care Aid Center, Inc.	0	123050
Hoku Le'a Schools, Inc.	0	117148

	General Funds	Federal Funds
Honolulu Community Action Program, Inc.	0	93558
Kapiolani Children's Medical Center	237656	0
Multidisciplinary Resource Unit		
Sex Abuse Treatment Center (Parents United/ Daughters and Sons United/ Adults Molested as Children United)	0	22990
Kauai Economic Opportunity, Inc., Day Care	0	149777
Kauai Office of the Elderly, Adult Day Care	24197	0
Kona Family YMCA	0	21000
Maui Day Care Center for Senior Citi- zens and Disabled, Inc., Group Day Care for Disabled Adults	0	69208
Maui Economic Opportunity, Inc., Chore Services	0	42189
Maunaolu Youth Residential Shelter, Emergency Shelter for Youth	35046	88275
Maunaolu Youth Residential Shelter, In- termediate Shelter Program	0	26964
Maui Rehabilitation Center, Chore Ser- vices	0	40834
Molokai General Hospital, Multidisciplin- ary Team Project	0	21381
Project Keiki, Inc.	0	29250
Rainbow School	0	105271
Salvation Army Residential Treatment Facility for Children and Youth, Kula Kokua	56022	0
Salvation Army Residential Treatment Facility for Children and Youth, Pohai Pono	111650	0
Salvation Army Residential Treatment Facility for Children and Youth	0	473073
Salvation Army-Hilo Interim Home	22548	81791
Seagull School	0	118521
Susannah Wesley Community Center,	0	73356
Kalihi-Palama Youth Intake Center		
The Children's Center	0	225957

	General Funds	Federal Funds
University of Hawaii-Honolulu Communi- ty College	0	51174
Waianae Coast Day Care Center	0	241290
Waikiki Community Center	0	95889
Wilcox General Hospital, Adult Care	0	106417
Windward Senior Day Care Center	0	33000
Women Helping Women, Hale Loko Maikai	0	60000
YMCA of Honolulu, (Kalihi Branch)-Al- ternatives for Youth	22301	0
Kauai County, YWCA, The Shelter GOV 860	0	67000
Hawaii County Economic Opportunity Council, Consumer Services	15000	0
Hawaii County Economic Opportunity Council Transportation Services	108497	0
Legal Aid Society of Hawaii	808920	0
Maui Economic Opportunity, Inc., Main- tenance of Effort	60669	0
Maui Economic Opportunity, Inc., Trans- portation Services GOV 602	89498	0
Catholic Social Service, Small Group Homes	75836	0
Kauai Office of the Elderly Transporta- tion Services	85979	0
Kapahulu Senior Center	65725	0
Lokahi Pacific	18954	0
Medical Personnel Pool, Inc., of Hawaii Services on Hawaii Island	16665	0
St. Francis Hospital	29745	0
Medical Personnel Pool, Inc., of Hawaii GOV 803	25000	0
Episcopal Church in Hawaii, Kalihi Pa- lama Immigrant Services Center	119801	0
Susannah Wesley Community Center, Immigrant Services	40149	0
E. FORMAL EDUCATION		
EDN 106		
Blue Water Marine Laboratory	100000	0

	General Funds	Federal Funds
EDN 108		
Hawaii County Economic Opportunity Council, Drop-out Prevention Program	63230	0
Hawaii County Economic Opportunity Council Language Arts Multicultural Program	160500	0
Maui Hui Malama, Inc.	44500	0
Episcopal Church in Hawaii, Immigrant Youth Program	63213	0
EDN 207		
Pacific and Asian Affairs Council	43682	0
F. CULTURE AND RECREATION		
AGS 881		
Bishop Museum	252788	0
Hawaii Performing Arts Company, Gen- eral Support	20223	0
Honolulu Theater for Youth, Statewide Theater for Youth	127000	0
Hawaii Youth Symphony Association	25279	0
Hawaii State Dance Council	35500	0
Honolulu Symphony Society	218408	0
Kalihi-Palama Culture and Arts Society, Inc.	41381	0
Waianae Coast Culture and Arts Society, Inc.	67002	0
Polynesian Voyaging Society	125000	0
Friends of Waipahu Cultural Garden Park	50558	0
G. PUBLIC SAFETY		
SOC 407		
John Howard Association, Liliha House I	128139	0
H. GOVERNMENT-WIDE SUPPORT		
GOV 100		
Pacific Housing Assistance Corporation	63702	0
GOV 102		
Protection and Advocacy Agency of Hawaii	100507	0
Molokai Agriculture Farm Project	78150	0

SECTION 79B. Provided that, if any organization named in this part is deemed to be ineligible in accordance with Chapter 42, Hawaii Revised Statutes, or unable to provide the activity listed, the expending agency may contract such services through another qualified provider; provided further that if the expending agency determines the need for additional purchases of service it may contract for such services; provided further that any additional expenditure of money for purchases of service shall be included in the report submitted pursuant to Section 79D of this part.

SECTION 79C. Provided that, if an expending agency receives additional federal funds for any purchase of service listed in this part, the expending agency may increase the amount designated for federal funds.

SECTION 79D. Provided that any agency or department for which purchases of service are appropriated, shall submit a report twenty days before the convening of the 1985 Regular Session; provided further that the report shall contain the following:

- (1) A listing of all agencies activities contracted during the fiscal year 1984-85, including identification of sources of funding;
- (2) A listing of any changes in funding and the reasons for the changes;
- (3) An evaluation of each agency-activity funded including a statement of program accomplishments of the agency-activity.

Provided further, that in submitting its 1985-87 budget request to the 1985 Legislature, all agencies and departments requesting funds for grants, subsidies, or purchases of service shall include in the budget submittal the following information:

- (1) A listing of all agencies-activities recommended for funding in FY 1985-86, including identification of sources of funding;
- (2) A listing of any changes in funding from FY 1984-85 and the reasons for the changes;
- (3) An evaluation of each agency-activity recommended for funding, including a statement of the agency-activity's relationship to program goals.

SECTION 79E. Provided that the designated expending agency for a grant, subsidy or purchase of service is authorized to delegate to other state or county agencies the expenditure of funds when it is determined by the agency that it is more advantageous to do so.

SECTION 79F. Provided that if a question arises as to whether or not a purchase of service contract may be entered into with an organization or individual because the name of the organization or individual differs from the name listed under section 79A, the governor shall request the president of the senate and the speaker of the house of representatives to determine if the

difference is the result of a technical error and if the legislature intended to appropriate funds for the purchase of service contract with the organization or individual. If the difference is the result of a technical error and the legislature intended to appropriate funds for the purchase of service contract for the organization or individual, the president and speaker jointly shall notify the governor in writing of the determination. Upon the notification, the designated expending agency may expend the appropriated funds for the purchase of service contract with the organization or individual, notwithstanding the error.

SECTION 79G. The following sums, or so much thereof as may be necessary, are appropriated out of the general revenues of the State of Hawaii for the fiscal year 1984-85 to the expending agencies designated: Council of Samoan Chiefs and Orators, Flag Day (AGS 881), \$15,000A; 100th Anniversary of Japanese Immigrants in Hawaii Celebration (GOV 100), \$100,000A; Portuguese Heritage Council (AGS 881), \$5,000A."

SECTION 7. Part V, Act 301, Session Laws of Hawaii 1983, is amended to read as follows:

"SECTION 80. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. The appropriations accounting by the Department of Accounting and General Services shall be made based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided that the total costs of the projects thus combined shall not exceed total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)"

DESIGN, CONSTRUCTION AND EQUIPMENT FOR A
GREENHOUSE FACILITY IN HAWAII

DESIGN	39		39
CONSTRUCTION	371		371
EQUIPMENT	50		50
TOTAL FUNDING	460	C	460

ANIMAL PEST AND DISEASE CONTROL
ANIMAL QUARANTINE

3. ANIMAL QUARANTINE WATER SUPPLY SYSTEM L50003 AGR131

IMPROVEMENTS TO THE WATER SUPPLY SYSTEM
AT THE ANIMAL QUARANTINE STATION

PLANS	20		20
DESIGN	25		25
CONSTRUCTION	390		390
TOTAL FUNDING	435	C	435

GENERAL SUPPORT FOR AGR
GENERAL ADMINISTRATION FOR AGR

5. AGRICULTURAL PARK SUBDIVISION, STATEWIDE A01 AGR192

PLANS AND CONSTRUCTION OF ON AND OFF SITE
IMPROVEMENTS FOR DEVELOPMENT OF AGRICUL-
TURAL LOTS.

PLANS	200	25	225
LAND		500	500
DESIGN	300	50	350
CONSTRUCTION		3,000	3,000
TOTAL FUNDING	500	3,575	4,075

6. DOA FACILITY, LIIHUE KAUAI A-K4 AGR192

DESIGN AND CONSTRUCT A FACILITY TO HOUSE
DOA PROGRAMS ON KAUAI

DESIGN	458		458
CONSTRUCTION			
EQUIPMENT			
TOTAL FUNDING	458	C	458

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)		
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
7.	DEPARTMENT OF AGRICULTURE FACILITY, HILO DESIGN, CONSTRUCTION AND EQUIPMENT FOR A FACILITY TO HOUSE DOA PROGRAMS IN HILO, HAWAII.	LS0001	AGR192				
	CONSTRUCTION EQUIPMENT				1,745		1,745
	TOTAL FUNDING			AGS	56		56
					1,801	C	1,801 C
8.	MOLOKAI AGRICULTURE PARK, PHASE II PLANS, DESIGN AND CONSTRUCTION FOR ROADS AND WATER IMPROVEMENTS AT THE MOLOKAI AGRICULTURAL PARK. FUNDS FROM SECTION 80, ITEM A-5, SLH 1983, "AGRICULTURAL PARK SUBDIVISION, STATEWIDE," MAY BE USED TO SUPPLEMENT THIS APPROPRIATION.	LS0005	AGR192				
	CONSTRUCTION				250		250
	TOTAL FUNDING			AGS	250	C	250 C
	ENERGY DEVELOPMENT AND MANAGEMENT				600		600
					600	C	600 C
8A.	ENERGY CONSERVATION IN HOSPITALS SCHOOLS AND PUBLIC BUILDINGS	SE0-1	PED120				

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	PLANS				614	444	1,058	
	LAND				1	1	2	
	DESIGN				290	430	720	
	CONSTRUCTION				500	400	900	
	EQUIPMENT				95	225	320	
	TOTAL FUNDING			PED	1,500 C	1,500 C	3,000 C	
11.	ENERGY CONSERVATION IN STATE BUILDINGS	ECB001	PED120					
	PLANS AND EQUIPMENT FOR IMPLEMENTING RETROFITS AND OTHER LOW COST CONSERVATION MEASURES TO REDUCE ENERGY USAGE IN STATE BUILDINGS AND FACILITIES.							
	PLANS				15	15	30	
	EQUIPMENT				35	35	70	
	TOTAL FUNDING			PED	50 C	50 C	100 C	
12.	WATER DEVELOPMENT & IRRIGATION SERVICES							
	WATER SOURCES INVESTIGATION, AND DEVELOPMENT, HAWAII	G25	LNR141					
	ENGINEERING AND ECONOMIC STUDIES, GEOLOGIC AND HYDROLOGIC INVESTIGATION, EXPLORATION AND DEVELOPMENT FOR THE CONSERVATION AND UTILIZATION OF SURFACE AND GROUND WATER RESOURCES INCLUDING THE IMPROVEMENT OF WATER QUALITY AND PRESERVATION OF WATER FOR INSTREAM USES.							

PLANS 20
LAND 40
DESIGN 80
CONSTRUCTION 530
TOTAL FUNDING 670 C

10 10 20 40 200 270 C

LNR

13. WATER SOURCES INVESTIGATION, AND DEVELOPMENT, OAHU
ENGINEERING AND ECONOMIC STUDIES, GEOLOGIC AND HYDROLOGIC INVESTIGATION, EXPLORATION AND DEVELOPMENT FOR THE CONSERVATION AND UTILIZATION OF SURFACE AND GROUND WATER RESOURCES INCLUDING THE IMPROVEMENT OF WATER QUALITY AND PRESERVATION OF WATER FOR INSTREAM USES.

G43 LNR141

PLANS 20
LAND 50
DESIGN 25
CONSTRUCTION 590
TOTAL FUNDING 710 C

10 10 25 25 330 410 C

LNR

14. WATER SOURCES INVESTIGATION, AND DEVELOPMENT, KAUAI
ENGINEERING AND ECONOMIC STUDIES, GEOLOGIC AND HYDROLOGIC INVESTIGATION, EXPLORATION AND DEVELOPMENT FOR THE CONSERVATION AND UTILIZATION OF SURFACE AND GROUND WATER RESOURCES INCLUDING THE IMPROVEMENT OF WATER QUALITY AND PRESERVATION OF WATER FOR INSTREAM USES.

G44 LNR141

PLANS 10
LAND 20
DESIGN 40
CONSTRUCTION 215
TOTAL FUNDING 285 C

5 5 10 10 20 35 C

LNR

15. WATER RESOURCES DEVELOPMENT FOR AGRICULTURE STATEWIDE
PLANNING ACQ DESIGN AND CONSTRUCTION OF WATER FACIL FOR AGRICULTURE, INCLUDING WATER DEVELOPMENT FOR AQUACULTURE AND REHABILITATION OF DITCH SYSTEMS.

G45 LNR141

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
16.	PLANS				10	10		20
	LAND				10	10		20
	DESIGN				40	180		220
	CONSTRUCTION				1,000	1,000		2,000
	TOTAL FUNDING			LNR	1,060 C	1,200 C		2,260 C
	WATER SOURCES INVESTIGATION, AND DEVELOPMENT, MAUI	G46	LNR141					
	ENGINEERING AND ECONOMIC STUDIES, GEOLOGIC AND HYDROLOGIC INVESTIGATION, EXPLORATION AND DEVELOPMENT FOR THE							
	CONSERVATION AND UTILIZATION OF SURFACE AND GROUND WATER RESOURCES INCLUDING							
	THE IMPROVEMENT OF WATER QUALITY AND PRESERVATION OF WATER FOR INSTREAM USES.							
	PLANS				5	5		10
16A.	LAND				10	10		20
	DESIGN				30	20		50
	CONSTRUCTION				255			255
	TOTAL FUNDING			LNR	300 C	35 C		335 C
	MAKALEHA VALLEY SPRING WATER SOURCE	LH001	LNR141					
	DYLT. WAILUA/KAPAA, KAUAI							
	PLANNING AND DESIGN FOR THE MAKALEHA VALLEY SPRING WATER SOURCE DEVELOPMENT							
	FOR THE WAILUA/KAPAA WATER SYSTEM KAUAI.							
	PLANS							
	DESIGN							
						48		48
						47		47

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	

CONSTRUCT ROADWAYS AND PARKING AREAS INCLUDING GROUND LEVEL AND ELEVATED STRUCTURES AND EXIT PLAZA FOR OVERSEAS AND INTERISLAND TERMINALS AND SUPPORT AREAS. ALTERATIONS TO EXISTING ROADS AND PARKING FACILITIES AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN

CONSTRUCTION
TOTAL FUNDING

3,500 B
3,500 E
N

11,330
10,330 B
E

14,830 B
3,500 E
1,000 N

TRN

3. HIA INTERISLAND COMPLEX

A11

TRN102

CONSTRUCT INTERISLAND COMPLEX INCLUDING BUILDINGS, AIRCRAFT APRONS AND TAXIWAYS, ROADWAYS, PARKING AND OTHER MISC IMPROVEMENTS. LAND ACQUISITION, RELOCATE EXISTING INTERISLAND MAINTENANCE, CARGO AND ADMIN OFFICES. ALTERATIONS TO EXISTING BLDGS APRONS, ROADWAYS AND PARKING. INSTALL FURNITURE, LANDSCAPING, AND MISC EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

LAND

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)		
					Fiscal M Year 1983-84	Fiscal M Year 1984-85	Total M Biennium 1983-85
	CONSTRUCTION OF RAMP AIR, TELEPHONE, FIRE ALARM, POTABLE WATER, LOADING BRIDGES, SIGNS AND AN INTEGRATED SYSTEM FOR ENERGY MANAGEMENT, FLIGHT INFORMATION, SAFETY & SECURITY SYSTEMS, UTILITIES AND EQUIPMENT. PROJECTS TO IMPROVE ENERGY EFFICIENCY AND OPERATIONAL EFFICIENCY AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.						
	DESIGN					960	960
	CONSTRUCTION				6,000	14,700	20,700
	TOTAL FUNDING			TRN	6,000	15,560	21,560
					E	E	E
					N	N	N
7.	IMPROVEMENTS TO CRASH FIRE STATION AT HONOLULU INTERNATIONAL AIRPORT	A38	TRN102				
	CONSTRUCT IMPROVEMENTS TO CRASH FIRE STATION INCLUDING STORAGE FACILITY FOR BOAT VESSEL, NIGHT LIGHTING, DEBRIS PROTECTION, ELECTRICALLY CONTROLLED DOORS, QUICK BOAT LAUNCH SYSTEM AND OTHER APPURTENANCES.						
	DESIGN						25
	CONSTRUCTION						250

8.	TOTAL FUNDING				TRN	275 E	E	275 E
	HIA TERMINAL MODIFICATIONS	A41	TRN102					
	MODIFICATIONS TO FACILITIES INCLUDING AL- TERATIONS TO BAGGAGE CLAIM AND INTRANSIT AREAS,OFFICES,CONCESSIONS,SIGNS,HOLDING & WAITING AREAS,FEDERAL INSPECTION AR- EAS,CEILINGS,AEROSPACE MUSEUM,TICKET LOB- BIES,RESTROOMS,AND LANDSCAPING. PROJECTS FOR OPERATIONAL AND ENERGY EFFICIEN- CY,PASSENGER CONVENIENCE AND OTHER MISC IMPROVEMENTS.							
	DESIGN					750		750
	CONSTRUCTION					7,540		7,540
	TOTAL FUNDING				TRN	4,860 B	B	4,860 B
						3,430 E	E	3,430 E
9.	SERVICE SUPPORT FACILITIES AT HIA	A43	TRN102					
	CONSTRUCT SERVICE SUPPORT FACILITIES IN- CLUDING NON POTABLE WATER TRANSMISSION AND DISTRIBUTION SYSTEM BOTH ON SITE AND OFF SITE AREAS. CONSTRUCT ROAD- WAYS,STRUCTURES, UTILITIES,PARKING IN SER- VICE SUPPORT AREAS, SITE DEVELOPMENT, LEASE LOTS AND OTHER MISC IMPROVEMENTS.							
	DESIGN					400	200	600
	CONSTRUCTION						6,100	6,100
	TOTAL FUNDING				TRN	400 B	5,740 B	6,140 B
							560 E	560 E
	KE-AHOLE AIRPORT FACILITIES AND SERVICES							
	KEAHOLE AIRPORT IMPROVEMENTS	C03	TRN114					

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
	CONSTRUCT MODIFICATIONS TO FACILITIES INCLUDING CONCESSION AREA, OFFICES, EMERGENCY GENERATOR AND DUCT LINES, ROADS AND PARKING, MAINTENANCE BASEYARD, ALTERATIONS TO IMPROVE OPERATIONAL AND ENERGY EFFICIENCY AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.				1,800	1,000		2,800
	DESIGN			TRN	B	B		B
	CONSTRUCTION				1,700 E	1,000 E		2,700 E
	TOTAL FUNDING				100 N	N		100 N
11.	KEAHOLE AIRFIELD IMPROVEMENTS	005	TRN114					
	CONSTRUCT AIRCRAFT APRONS, ROADS, SAFETY AREAS, ALTERATIONS TO RUNWAYS AND TAXIWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.							
	DESIGN			TRN	1,385	400		400
	CONSTRUCTION				B	B	B	2,085
	TOTAL FUNDING				D	D	D	D
					1,285 E	1,100 E		2,385 E
					100 N	N	N	100 N

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)		
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
LIHUE AIRPORT FACILITIES AND SERVICES							
15.	LIHUE AIRPORT COMPLEX	E03	TRN161				
	CONSTRUCT AIRPORT FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, AIR-CRAFT APRONS, TAXIWAYS, RUNWAYS, CARGO TERMINAL, LEASE LOTS AND HANGARS, ALTERATION TO EXISTING FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, RUNWAYS, AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.						
	DESIGN				200		200
	CONSTRUCTION				25,825		25,825
	TOTAL FUNDING			TRN			
					B	B	B
					25,925	25,925	25,925
					100	100	100
					N	N	N
AIR TRANSPORTATION FACILITIES & SVCS SUPPORT							
16.	AIRPORT PLANNING STATEWIDE	F04	TRN195				
	PROVIDE BASIC DATA AND INFORMATION FOR PROPER PLANNING, PRELIMINARY DESIGNS, SPECIAL ENGINEERING, ARCHITECTURAL, ENVIRONMENTAL AND SPECIAL STUDIES FOR THE STATEWIDE SYSTEM OF AIRPORTS AND CONTINUE REVIEW AND UPDATING OF MASTER PLANS						

[illegible]

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
20.	MISC IMPROV TO EXIST FACILITIES AT HON HAR MISCELLANEOUS IMPROVEMENTS TO EXISTING PIERS, SHEDS AND YARD FACILITIES AT HONOLULU HARBOR, INCLUDING IMPROVEMENTS TO LIGHTING, PAVING, AND OTHER FACILITIES.	J03	TRN301					
	DESIGN CONSTRUCTION TOTAL FUNDING				15	15	30	
				TRN	80	85	165	
					95 B	100 B	195 B	
21.	IMPROVEMENTS TO FORT ARMSTRONG FACILITIES RECONSTRUCTION OF FENDERING SYSTEM AT PIERS 1 AND 2	J04	TRN301					
	DESIGN CONSTRUCTION TOTAL FUNDING				60		60	
				TRN	1,165	B	1,165	B
					1,225 E	E	1,225 E	E
22.	WATERFRONT REDEVELOPMENT, HON HAR DESIGN AND CONSTRUCT REDEVELOPMENT OF EXISTING FACILITIES BETWEEN PIERS 2 TO 18.	J05	TRN301					
	PLANS							

[illegible]

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
24B.	DESIGN					150	150	
	CONSTRUCTION			TRN		1,500	1,500	
	TOTAL FUNDING				B	150 B	150 B	
					E	1,500 E	1,500 E	
	FIREBOAT FOR HONOLULU HARBOR	129	TRN301					
	REPLACEMENT OF EXISTING FIREBOAT FOR HONOLULU HARBOR.							
	DESIGN			TRN	B	130	130	
	TOTAL FUNDING					130 B	130 B	
	BARBERS POINT HARBOR FACILITIES AND SERVICES							
25.	BARBERS PT DEEP DRAFT HARBOR IMPROVEMENTS OAH	111	TRN303					
	INCREMENTAL DEVELOPMENT OF BARBER'S POINT HARBOR INCLUDING FENCING, CLEARING, GRUBBING AND THE CONSTRUCTION OF PIER, YARD AND SHED FACILITIES AND UTILITIES.							
	PLANS					250	250	
	DESIGN							
	CONSTRUCTION			TRN	B	250 B	250 B	
	TOTAL FUNDING				E	E	E	
					N	N	N	

[illegible]

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85	Fiscal M Year O 1983-85
29.	CONTAINER FACILITIES AT KAHULUI HARBOR	M06	TRN331		162 E	E	162 E	
	DESIGN AND CONSTRUCTION OF PIER FACILITY AT END OF PIER 1 INCLUDING FILL AND OTHER IMPROVEMENTS.							
	DESIGN				120		120	
	CONSTRUCTION			TRN	1,690	B	1,690	B
	TOTAL FUNDING					C		C
					1,810 E	E	1,810 E	E
	KAUNAKAKAI HARBOR FACILITIES AND SERVICES							
29A.	KAUNAKAKAI HARBOR RECONSTRUCTION, MO. LOKAI	M07	TRN341					
	RECONSTRUCTION OF FACILITIES AT KAUNAKAKAI HARBOR, INCLUDING BULKHEAD WALLS, ROCK WALLS, GRADING, PAVING, UTILITIES AND OTHER IMPROVEMENTS.							
	DESIGN				50		50	
	CONSTRUCTION			TRN	543		543	
	TOTAL FUNDING				593 E	E	593 E	E
	NAWILIWILI HARBOR FACILITIES AND SERVICES							
31.	SMALL COMMERCIAL BOAT FACILITIES AT	K05	TRN361					

32.	NAWILIWILI HARBOR, KAUAI CONSTRUCTION OF FACILITIES FOR SMALL COM- MERCIAL AND FISHING BOATS IN THE NORTH- WEST END OF NAWILIWILI HARBOR.			
	DESIGN			
	CONSTRUCTION			
	TOTAL FUNDING		145	145
			145 B	B
				145 B
WATER TRANSPORTATION FAC & SVCS SUPPORT				
32.	STATEWIDE HARBOR PLANNING			
		101	TRN395	
	CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE PLANNING OF HARBOR AND TERMI- NAL FACILITIES ON ALL ISLANDS			
	PLANS			
	TOTAL FUNDING		110	110
			110 B	B
				110 B
33. MISC. IMPRV. TO FAC. AT NEIGHBOR IS. PORTS				
	IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS AND OTHER FACILI- TIES.			
	DESIGN			
	CONSTRUCTION			
	TOTAL FUNDING		15	30
			80	85
			95 B	100 B
				165
				195 B
34. STATEWIDE COMMERCIAL HAR. SEWER SYS				
	IMPRV.	104	TRN395	
	SEWER IMPROVEMENTS AT HONOLULU HARBOR INCLUDING PIERS 19 TO 29 AREAS.			
	DESIGN			
	CONSTRUCTION			
	TOTAL FUNDING		25	50
			285	343
			B	368 B
			310 E	368 B
				310 E
	LAND TRANSPORTATION FACILITIES AND SERVICES			
	OAHU HIGHWAYS AND SERVICES			

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85	Fiscal M Year O 1983-85
35.	INTERSTATE ROUTE H-1-MIDDLE STREET SEPARATION TO AINA KOA AVENUE, OAHU. SAFETY IMPROVEMENTS ALONG EXISTING LUNALILO FREEWAY FROM MIDDLE STREET SEPARATION TO AINA KOA AVENUE. THIS PROGRAM IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	Q44	TRN501		10,612	B	10,612	B
	LAND							
	DESIGN							
	CONSTRUCTION			TRN	1,514	D	1,514	D
	TOTAL FUNDING				9,098	J	9,098	J
36.	INTERSTATE ROUTE H-1, EAST OF HALAWA I.C. TO MIDDLE STREET SEPARATION, OAHU. INCREMENTAL CONSTRUCTION OF EIGHT FREEWAY LANES, INCLUDING PEARL HARBOR, AIRPORT AND KEEHI INTERCHANGES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	R12	TRN501					
	LAND							
	DESIGN				588		588	
	CONSTRUCTION				951		951	
	TOTAL FUNDING			TRN	17,995	23,970	41,965	B
								C
					2,462	D	3,153	D
					17,072	J	20,817	J
								37,889

LINE NO.	DESCRIPTION	TRN	AMOUNT	TRN	AMOUNT
37.	INTERSTATE ROUTE H-3, JUNCTION AT H-1 TO KANEHOE MARINE CORPS AIR STATION, OAHU. INCREMENTAL CONSTRUCTION OF DIVIDED HIGHWAY FROM JUNCTION AT H-1 TO KANEHOE MARINE CORPS AIR STATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	TRN501			
	LAND		12,368		12,368
	DESIGN		8,591		15,181
	CONSTRUCTION		43,655		116,687
	TOTAL FUNDING				
		TRN	B	B	B
			C	C	C
			6,407 D	11,272 D	17,679 D
			43,838 J	82,719 J	126,557 J
38.	KAMEHAMEHA HIGHWAY, HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK, OAHU. REALIGNMENT AND IMPROVEMENT OF HIGHWAY FROM HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	TRN501			
	LAND				
	DESIGN				
	CONSTRUCTION				
	TOTAL FUNDING				
		TRN	B	B	B
			C	C	C
			D	292 D	292 D
			K	401 K	401 K
38A.	PALI HIGHWAY IMPROVEMENT, WAAKANAKA TO VINEYARD BOULEVARD, OAHU. CONSTRUCTION OF ADDITIONAL TRAFFIC SIGNALS AND DESIGN AND CONSTRUCTION OF LEFT TURN STORAGE LANES AT NIOLOPA PLACE AND AHIPUU STREET.	S51			
	DESIGN				
	CONSTRUCTION				
	TOTAL FUNDING				
		TRN	B	B	B
			10	10	10
			105	105	105

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Total M Biennium O 1983-85
39.	EMERGENCY TRUCK TURNOUTS AT PALI & LIKELIKE HIGHWAYS, OAHU. CONSTRUCTION OF EMERGENCY TRUCK TURN-OUTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR RE-IMBURSEMENT.	568	TRN501		C D K	C 115 D K	C 115 D K	C 115 D K
	LAND DESIGN CONSTRUCTION TOTAL FUNDING					32	32	32
				TRN		150	B 67 D 115 K	150 67 D 115 K
40.	GUARDRAIL & SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON OAHU. UPGRADING OF EXISTING DIRT OR SOD SHOUL- DERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS, CONCRETE SAFETY BARRI- ERS AND MODERNIZATION OF EXISTING GUARD- RAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON OAHU.	578	TRN501					

DESIGN CONSTRUCTION TOTAL FUNDING	TRN	10 90 B D	10 90 B D	10 90 B D
41.	LIKELIKE HIGHWAY IMPROVEMENTS, VICINITY OF KULA KOLEA TO KAM IV ROAD, OAHU. ROADWAY IMPROVEMENTS AND ADDITIONAL LANE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR RE-IMBURSEMENT.	S92	TRN501	
DESIGN CONSTRUCTION TOTAL FUNDING	TRN	1,650 B D K	1,650 B D K	1,650 B D K
42.	LIKELIKE HIGHWAY IMPROVEMENT, KAM IV ROAD TO KALIHI STREET, OAHU. ROADWAY IMPROVEMENTS, ADDITIONAL LANE, PEDESTRIAN FOOTPATH, AND TRAFFIC SIGNAL INCLUDING WIDENING OF KALIHI STREAM BRIDGE AND REMOVAL OF PEDESTRIAN FOOT-BRIDGE AT KALIHI STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	S93	TRN501	
DESIGN CONSTRUCTION TOTAL FUNDING	TRN	1,559 B D K	1,559 B D K	1,559 B D K
HAWAII HIGHWAYS AND SERVICES				
43.	HAWAII BELT ROAD, CLIMBING LANES AT OOKALA, HAMAKUA, HAWAII. CONSTRUCTION OF CLIMBING LANES FROM KAAWALI GULCH TO OOKALA CEMETARY.	T26	TRN511	
LAND DESIGN CONSTRUCTION TOTAL FUNDING	TRN	17 C	17 C	17 C

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
44.	HAWAII BELT ROAD, SLAUGHTER HOUSE ROAD TO SOUTH OF KEAAU-PAHOA ROAD, PUNA, HAWAII. IMPROVEMENT AND REALIGNMENT OF EXISTING TWO-LANE HIGHWAY TO FOUR-LANE HIGHWAY FROM THE VICINITY OF SLAUGHTER HOUSE ROAD TO SOUTH OF THE KEAAU-PAHOA ROAD, INCLUDING IMPROVEMENT OF THE HAWAII BELT ROAD AND KEAAU-PAHOA ROAD INTERSECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.	T56	TRN511		D	17 D	17 D	
	LAND					33	33	
	DESIGN					52	52	
	CONSTRUCTION			TRN	B	B	B	B
	TOTAL FUNDING				D	85 D	85 D	
					K	K	K	K
45.	HAWAII BELT ROAD, TRUCK CLIMBING LANES, PEPEKEO, SOUTH HILO, HAWAII. CONSTRUCTION OF CLIMBING LANES ON HAWAII BELT ROAD AT PEPEKEO.	T61	TRN511					
	LAND					35	35	
	DESIGN							

46.	CONSTRUCTION TOTAL FUNDING	T77	TRN511	TRN	B D	B 35 D	B 35 D
GUARDRAIL AND SHOULDER IMPROVEMENTS, AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON HAWAII							
UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUADRAILS AND MODERNIZATION OF EXISTING GUADRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAY ON HAWAII, INCLUDING KAWAHAE ROAD SAFETY IMPROVEMENTS, KAWAHAE TO WAIKA JUNCTION.							
47.	DESIGN CONSTRUCTION TOTAL FUNDING	T79	TRN511	TRN	B D	7 93	7 93
HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS DISTRICT OF KAU, HAWAII.							
HYDROLOGIC STUDIES OF DRAINAGE BASINS WHICH CAUSE FLOODING OF HBR, AND SUBSEQUENT DRAINAGE IMPROVEMENTS INCLUDING NEW STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.							
47A.	LAND DESIGN CONSTRUCTION TOTAL FUNDING	T80	TRN511	TRN	D K	175 175 D	175 175 D
WAMEA-KAWAHAE ROAD, WAIKA STREAM BRIDGE & APPROACHES, WAMEA, HAWAII.							
REPLACEMENT OF WAIKA STREAM BRIDGE AND REALIGNMENT OF APPROACHES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.							
47A.	LAND	T80	TRN511	TRN	D K	175 175 D	175 175 D
WAMEA-KAWAHAE ROAD, WAIKA STREAM BRIDGE & APPROACHES, WAMEA, HAWAII.							
REPLACEMENT OF WAIKA STREAM BRIDGE AND REALIGNMENT OF APPROACHES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.							

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
48.	DESIGN	V41	TRN531	TRN		300	300	
	CONSTRUCTION							
	TOTAL FUNDING				D N	135 D 165 N	135 D 165 N	
49.	MAUI HIGHWAYS AND SERVICES	V42	TRN531	TRN				
	HALEAKALA HIGHWAY, HANA HIGHWAY TO HALIMAILE RD-TRUCKLANE							
	CONSTRUCTION OF HIGHWAY FROM HALIMAILE ROAD TO KULA HIGHWAY JUNCTION, INCLUDING A TRAFFIC SIGNAL AT PUKALANI STREET JUNCTION, AND A TRUCK CLIMBING LANE FROM HANA HIGHWAY TO HALIMAILE ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.							
49.	LAND	V42	TRN531	TRN		190	190	
	DESIGN							
	CONSTRUCTION				C D K	C D K	C D K	
49.	TOTAL FUNDING	V42	TRN531	TRN				
	HONOAPIILANI HIGHWAY, LAHAINA, MAUI							

CONSTRUCTION OF TWO-LANE HIGHWAY FROM HONOKOWAI TO HONOKAHUA, INCLUDING PLANNING FOR OTHER IMPROVEMENTS TOWARD LAHAINA ALONG HONOAPILANI HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

PLANS	100	100
LAND		
DESIGN	48	48
CONSTRUCTION	10,205	10,205
TOTAL FUNDING		
	C	C
	D	3,112 D
	K	7,241 K
TRN		

50. HANA HIGHWAY - HUELO TO HANA, MAUI TRN531

REPAIR AND REPLACEMENT OF BRIDGES AND CULVERTS, SAFETY IMPROVEMENTS AND RESURFACING OF HANA HIGHWAY FROM HUELO TO HANA.

DESIGN	100	100
CONSTRUCTION	900	900
TOTAL FUNDING		
	B	B
	C	C
	D	1,000 D
TRN		

51. GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS ON MAUI. TRN531

UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON MAUI.

DESIGN	10	10
CONSTRUCTION	90	90
TOTAL FUNDING		
	B	B
	D	100 D
TRN		

CONSTRUCTION OF NEW BRIDGE OVER THE HANALEI RIVER, INCLUDING APPROACHES, NEXT TO THE EXISTING HANALEI BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

LAND
DESIGN
CONSTRUCTION
TOTAL FUNDING

TRN

989 C
247 D
742 K
742 N

55. GUARDRAIL AND SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON KAUAI. TRN561

UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING & INSTALLATION OF METAL GUARDRAILS & MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON KAUAI.

DESIGN
CONSTRUCTION
TOTAL FUNDING

TRN

10
90 B
100 D

56. KUHIO HIGHWAY, KAUAI. TRN561

CONSTRUCTION OF PASSING LANES BETWEEN HANAMAULU AND WAILUA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

LAND
DESIGN
CONSTRUCTION
TOTAL FUNDING

TRN

154 B
69 D
85 N

LAND TRANSPORTATION FAC & SVCS SUPPORT

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
57.	CONSTRUCTION OF WHEELCHAIR RAMPS-STATE-WIDE. CONSTRUCTION OF WHEELCHAIR RAMPS AT VARIOUS LOCATIONS ALONG STATE HIGHWAYS, STATEWIDE. DESIGN CONSTRUCTION TOTAL FUNDING	X91	TRN595			5 45 50	5 45 50	5 45 50
58.	MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS & HIGHWAY FACILITIES, STATE-WIDE MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT. LAND DESIGN CONSTRUCTION TOTAL FUNDING	X98	TRN595	TRN	B D	B D	B D	B D
59.	HIGHWAY PLANNING, STATEWIDE.	X99	TRN595	TRN	D N	D N	D N	D N

ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RE-
SEARCH AND ADVANCE PLANNING OF FEDERAL-
AID AND NON FEDERAL-AID HIGHWAY PROJECTS.
THIS PROJECT IS DEEMED NECESSARY TO QUALI-
FY FOR FEDERAL-AID FINANCING OR REIM-
BURSEMENT.

PLANS					
TOTAL FUNDING	1,390	799	2,189		
	490 B	280 B	770 B		
	D	D	D		
	900 N	519 N	1,419 N		

TRN

D. ENVIRONMENTAL PROTECTION

POLLUTION CONTROL
SOLIDS, LIQUIDS, GASES, AND NOISE

1.	SEWERAGE CONSTRUCTION GRANTS	840001	HTH840		
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GRANTS TO COUNTY OR STATE AGENCIES FOR
ELIGIBLE WATER POLLUTION CONTROL FACIL-
ITIES CONFORMING WITH THE STATE WPC PLAN
AUTHORIZED BY ACT 187/79. STATE MAY MAKE
GRANTS TO FINANCE ELIGIBLE PLANNING, DE-
SIGN AND/OR CONSTRUCTION COSTS OF PROI-
ECTS RECEIVING FEDERAL GRANTS.

PLANS					
DESIGN	16	96	112		
CONSTRUCTION	657	227	884		
TOTAL FUNDING	1,846	2,196	4,042		
	2,519 C	2,519 C	5,038 C		

HTH

PRESERVATION AND ENHANCEMENT
FORESTS AND WILDLIFE RESOURCES

2.	OAHU DLNR BASEYARD	D-08	LNR402		
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PLAN, DESIGN AND CONSTRUCT A DEPARTMEN-
TAL BASEYARD ON OAHU, REPLACING THE OLD
INADEQUATE FACILITIES WITH THE NEEDED OF-
FICE, STORAGE, COVERED PARKING, MAINTE-
NANCE, NURSERY, AND RESEARCH/
EDUCATIONAL/INFORMATIONAL FACILITIES.

PLANS					
				25	25

25

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2A.	DESIGN CONSTRUCTION EQUIPMENT					40	40	
	TOTAL FUNDING							
	WATER RESOURCES							
	INVESTIGATION AND DEVELOPMENT OF DESALTING PLANT TECHNOLOGY	G91	LNR404	LNR	25 C	40 C	65 C	
	PLANS LAND DESIGN CONSTRUCTION EQUIPMENT					100	100	
2B.	TOTAL FUNDING							
	COASTAL AREAS							
	NIUMALU SHORE PROTECTION, KAUAI	10K	TRN903					
	DESIGN AND CONSTRUCTION OF REVETMENT FOR SHORELINE PROTECTION AT NIUMALU INCLUDING CLEARING, GRADING, AND OTHER IMPROVEMENTS.							
	DESIGN CONSTRUCTION					35	35	

TOTAL FUNDING	TRN	C	35	C	35	C
2C. WAILOA RIVER AND HILO BAY AREA DREDGING AND OTHER IMPROVEMENTS AT WAILOA RIVER AND HILO BAY AREA.	17H	TRN903				
CONSTRUCTION						
TOTAL FUNDING			150	150	C	150
E. HEALTH						
PHYSICAL HEALTH						
HOSPITAL CARE						
LEAHI HOSPITAL						
1. LEAHI HOSPITAL, YOUNG BUILDING RENOVATION	242001	HTH242				
PLANS AND CONSTRUCTION FOR ADDITIONS, RENOVATIONS AND REMODELING OF MEDICAL AND ANCILLARY FACILITIES FOR YOUNG BUILDING.						
PLANS						
DESIGN						
CONSTRUCTION			6,089	6,089		6,089
EQUIPMENT			50	50		50
TOTAL FUNDING			6,139	6,139	C	6,139
AGS						
MENTAL HEALTH						
HAWAII STATE HOSPITAL						
2. HAWAII STATE HOSPITAL	430001	HTH430				
PLANS AND CONSTRUCTION FOR DEVELOPMENT OF STATE HOSPITAL, INCLUDING RENOVATIONS AND MODIFICATIONS.						
PLANS						
DESIGN						
CONSTRUCTION			1,271	1,271		1,271
EQUIPMENT						
TOTAL FUNDING						
AGS						
MENTAL RETARDATION						
WAIMANO TRAINING SCHOOL AND HOSPITAL						
			1,271	1,271	C	1,271

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
2A.	RENOVATION OF HALE "C", "D", AND "F" FOR ICF/GENERAL RENOVATIONS OF BATHROOMS, BEDROOMS AND NURSES STATION IN WAIMANO HALE C, D, AND F.	511001	HTH311					
	DESIGN					29	29	
	CONSTRUCTION					144	144	
	TOTAL FUNDING					173	173	173
F.	SOCIAL SERVICES			AGS	C			
	ASSURED STANDARD OF LIVING							
	HOUSING ASSISTANCE							
	PRIVATE HOUSING DEVELOPMENT & OWNERSHIP							
1A.	WAIHOLE VALLEY AGRICULTURAL PARK AND RESIDENTIAL LOTS SUBDIVISION	84001	SOC225					
	CONSTRUCTION OF ON AND OFF SITE IMPROVEMENTS TO THE WAIHOLE VALLEY AGRICULTURAL PARK AND RESIDENTIAL LOTS SUBDIVISION.							
	CONSTRUCTION					1,130	1,130	
	TOTAL FUNDING					1,130	1,130	1,130
	SERVICES TO NATIVE HAWAIIANS							
	PLNNG, DEVPMT AND MGT FOR HAWN HOMESTD LANDS							
1.	ANAOHOLA DEVELOPMENT PLANS (2500 ACRES)	H-45	HHL602	AGS	C			
	TO PREPARE PLANS FOR FUTURE DEVELOPMENT OF THE ANAOHOLA AREA, KAUAI							

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
6.	DESIGN					100		100
	CONSTRUCTION			HHL				
	TOTAL FUNDING				C	100 C		100 C
	NANAKULI RESIDENCE LOTS, GRAVITY SEWER SYSTEM	H-66	HHL602					
	TO PREPARE DETAILED DESIGNS AND PLANS AND TO CONSTRUCT A GRAVITY SEWER SYSTEM FOR SEWAGE DISPOSAL FOR EXISTING AND FUTURE HOMESTEADERS OF NANAKULI RESIDENCE LOTS, OAHU							
7.	DESIGN					100		100
	CONSTRUCTION			HHL				
	TOTAL FUNDING				C	100 C		100 C
	NANAKULI RESIDENCE LOTS, SERIES 6	H-67	HHL602					
	TO PREPARE DETAILED DESIGNS AND PLANS AND TO CONSTRUCT SITE IMPROVEMENTS (ACCESS ROAD AND UTILITIES) TO DEVELOP AN ADDITIONAL FORTY (40) RESIDENTIAL SINGLE FAMILY LOTS IN NANAKULI, OAHU							
8.	DESIGN					130		130
	CONSTRUCTION			HHL				
	TOTAL FUNDING				C	130 C		130 C
	PANAewa FARM LOTS, PHASE 2	H-68	HHL602					

TO PREPARE DETAILED DESIGNS AND PLANS
AND TO CONSTRUCT SITE IMPROVEMENTS (AC-
CESS ROADS AND UTILITIES) TO SERVICE 25 EX-
ISTING FARM LOTS AND TO DEVELOP
APPROXIMATELY SIXTY (60) NEW FARM LOTS IN
PANAEEWA, HILO, ISLAND OF HAWAII

DESIGN		200		200
CONSTRUCTION				
TOTAL FUNDING			C	200 C

HHL

9. PANAEWA RESIDENCE LOTS, UNIT 4 H-69 HHL602

TO PREPARE DETAILED DESIGNS AND PLANS
AND TO CONSTRUCT SITE IMPROVEMENTS (AC-
CESS ROADS AND UTILITIES) TO DEVELOP AN AD-
DITIONAL FORTY (40) RESIDENTIAL SINGLE
FAMILY LOTS IN PANAEWA, HILO, ISLAND OF
HAWAII

DESIGN		90		90
CONSTRUCTION				
TOTAL FUNDING			C	90 C

HHL

9A. WAIANAE VALLEY ROAD WIDENING, OAHU LH2150 HHL602

PLANS AND CONSTRUCTION FOR WIDENING AND
IMPROVEMENTS TO WAIANAE VALLEY ROAD
FROM MAUKA MCARTHUR STREET TO KANEAKI
STREETS. FUNDS WILL BE EXPENDED BY THE
CITY AND COUNTY OF HONOLULU.

LAND				
DESIGN		1,500		1,500
CONSTRUCTION		1,500		1,500
TOTAL FUNDING			C	

HHL

G. FORMAL EDUCATION
LOWER EDUCATION
INSTRUCTION

1. RELOCATE OR CONSTRUCT PORTABLE CLASS-
ROOMS 001 EDN/05

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
2.	RELOCATION OR CONSTRUCTION OF PORTABLES EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG SCHOOLS, PROGRAM DEMANDS, UNFORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES WHILE NEW SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION. THESE FUNDS ARE ALSO FOR SECONDARY SCHOOLS.							
	DESIGN				100	100		200
	CONSTRUCTION				900	900		1,800
	TOTAL FUNDING			AGS	1,000 C	1,000 C		2,000 C
	MINOR IMPROVEMENTS	002	EDN105					
3.	MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENT TO BUILDINGS AND SCHOOL SITES.							
	DESIGN				70	70		140
	CONSTRUCTION				225	225		450
	EQUIPMENT				5	5		10
	TOTAL FUNDING			AGS	300 C	300 C	A	600 C
3.	LUMP SUM FOR MASTER PLANS AND SITE STUDIES MINOR LAND ACQUISITION	003	EDN105					

ACQUISITION OF SMALL PARCELS, MASTER PLANNING, PRE-LAND ACQUISITION STUDIES, SITE SELECTION AND FEASIBILITY STUDIES TO MEET FUTURE AND UNFORESEEN SCHOOL NEEDS. CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND EXPENDITURE PLANNING

PLANS	99	100	199
LAND	1		1
DESIGN			
CONSTRUCTION			
TOTAL FUNDING	100 C	100 C	200 C
4. REMOVAL OF ARCHITECTURAL BARRIERS AND SPECIAL EDUCATION CLASSROOM IMPROVEMENTS TO PROVIDE RAMPS AND OTHER CORRECTIVE MEASURES FOR EASY ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.	005	EDN105	
DESIGN		100	100
CONSTRUCTION	600	600	1,200
TOTAL FUNDING	600 C	700 C	1,300 C
5. LUMP SUM - FIRE PROTECTION SYSTEMS; FIRE ALARM SYSTEMS FIRE PROTECTION SYSTEMS TO MEET WATER SYSTEM STANDARDS	008	EDN105	
DESIGN	50	50	100
CONSTRUCTION	250	250	500
TOTAL FUNDING	300 C	300 C	600 C
6. LUMP SUM - CORRECTION TO SOUND PROBLEM TO PROVIDE CORRECTIVE MEASURES ON EXCESSIVE EXTERIOR NOISE AND VENTILATION PROBLEMS THAT AFFECT CLASSROOMS	009	EDN105	
DESIGN	100	100	200
CONSTRUCTION	650	650	1,300
TOTAL FUNDING	750 C	750 C	1,500 C
6A. PUUNENE ELEMENTARY SCHOOL	LS0003	EDN105	

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State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85	F
IMPROVEMENTS TO WATER SYSTEM.								
	DESIGN CONSTRUCTION					30	30	
	TOTAL FUNDING			AGS		245	245	
7.	MCKINLEY HIGH	140003	EDN105		C	275	275	C
DESIGN AND CONSTRUCT RENOVATION OF BLDG C.								
	CONSTRUCTION EQUIPMENT					1,190	1,190	
	TOTAL FUNDING			AGS	10		10	
8.	MCKINLEY HIGH	140004	EDN105		1,200 C	C	1,200	C
DESIGN AND CONSTRUCT RENOVATION OF BLDG D.								
	DESIGN CONSTRUCTION EQUIPMENT				135		135	
	TOTAL FUNDING			AGS		1,180	1,180	
9.	MCKINLEY HIGH	140005	EDN105		135 C	20	1,335	C
DESIGN AND CONSTRUCT RENOVATION OF BUILDING B.								
	DESIGN							135

	CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	C	135 C	135 C
10.	MILLANI HIGH SCHOOL DESIGN AND CONSTRUCT CLASSROOM BUILDING, EQUIPMENT AND APPURTENANCES.	215007	EDN105		
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING			120	120
11.	WAIALUA HI, OAHU DESIGN AND CONSTRUCT INDUSTRIAL EDUCA- TION CLASSROOMS, GROUND AND SITE IMPROVE- MENTS.	234001	EDN105		
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING			120 C	120 C
12.	WAIPAHU INTERMEDIATE DESIGN AND CONSTRUCT CLASSROOM BUILDING, GROUND AND SITE IMPROVEMENTS.	331002	EDN105		
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING			1,325 20 1,350 C	5 1,325 20 1,350 C
13.	LEIHKU ELEMENTARY DESIGN AND CONSTRUCT CLASSROOM BLDG, GROUND AND SITE IMPROVEMENTS	341004	EDN105		
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING			116 1,890 30 1,920 C	116 1,890 30 2,036 C
	DESIGN CONSTRUCTION EQUIPMENT			90 1,545 16	90 1,545 16

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Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	TOTAL FUNDING			AGS	90 C	1,561 C	1,651 C	
14.	KAHUKU HIGH SCHOOL	410005	EDN105					
	DESIGN AND CONSTRUCTION FOR THREE SHOPS.							
	DESIGN							
	CONSTRUCTION				1,360		1,360	
	EQUIPMENT				30		30	
	TOTAL FUNDING			AGS	1,390 C	C	1,390 C	
15.	LAIE ELEMENTARY	420006	EDN105					
	DESIGN AND CONSTRUCT CLASSROOMS, EQUIPMENT AND APPURTENANCES.							
	DESIGN					60	60	
	CONSTRUCTION							
	EQUIPMENT							
	TOTAL FUNDING			AGS	C	60 C	60 C	
15A.	WAIMANALO ELEMENTARY AND INTERMEDIATE	428005	EDN105					
	RENOVATE CLASSROOMS FOR HOME ECONOMICS PROGRAM							
	DESIGN					20	20	
	CONSTRUCTION					120	120	
	EQUIPMENT					10	10	

TOTAL FUNDING			AGS	C	150 C	150 C
16.	HONOKAA HIGH AND ELEM SCH	507002	EDN105			
	DESIGN AND CONSTRUCTION OF PE LOCKER SHOWER AND CLASSROOMS; COVERED WALKWAY, ACCESS ROAD; PARKING; EQUIPMENT AND AP- PURTENANCES; PAVED PLAYCOURTS.					
	DESIGN					
	CONSTRUCTION				1,700	1,700
	EQUIPMENT				10	10
	TOTAL FUNDING			C	1,710 C	1,710 C
17.	KAUMANA ELEMENTARY	512001	EDN105			
	DESIGN AND CONSTRUCTION ELEMENTARY CLASSROOMS, EQUIPMENT AND APPURTENANCES, COVERED WALKWAY					
	DESIGN					
	CONSTRUCTION			750		750
	EQUIPMENT			8		8
	TOTAL FUNDING			758 C	C	758 C
18.	KEALAKEHE ELEM & INTER SCHOOL, N. KONA	514001	EDN105			
	DESIGN AND CONSTRUCTION OF PE LOCKER SHOWER FACILITY, PAVED PLAYCOURTS, EQUIP- MENT AND APPURTENANCES					
	DESIGN					
	CONSTRUCTION				1,345	1,345
	EQUIPMENT				10	10
	TOTAL FUNDING			C	1,355 C	1,355 C
19.	KONAWAENA HIGH AND INTER KONA, HAWAII	518002	EDN105			
	DESIGN AND CONSTRUCTION-MUSIC BUILDING EQUIPMENT AND APPURTENANCES					
	DESIGN					
	CONSTRUCTION			930		930

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Total M Biennium O 1983-85 F
20.	EQUIPMENT				10		10	
	TOTAL FUNDING			AGS	940 C	C	940 C	
	KONAWAENA HIGH AND INTER SCHOOL	518003	EDN105					
	DESIGN AND CONSTRUCTION CLASSROOM BUILDING EQUIPMENT AND APPURTENANCES							
	DESIGN				70	1,482	70	1,482
	CONSTRUCTION EQUIPMENT					20		20
21.	TOTAL FUNDING			AGS	70 C	1,502 C	1,572 C	
	PAHOA HIGH AND ELEMENTARY SCHOOL	523004	EDN105					
	DESIGN AND CONSTRUCTION-PE/ATHLETIC FIELD, PAVED PLAYCOURTS, EQUIPMENT AND APPURTENANCES.							
	DESIGN							
	CONSTRUCTION EQUIPMENT				1,836		1,836	
	TOTAL FUNDING			AGS	2	C	2	1,838 C
22.	PAHOA HIGH & ELEMENTARY	523007	EDN105					
	DESIGN AND CONSTRUCTION SECONDARY CLASSROOMS, COVERED WALKWAY, PARKING, EQUIPMENT AND APPURTENANCES							
	DESIGN				90		90	

23.	CONSTRUCTION EQUIPMENT TOTAL FUNDING					1,392 20 1,502 C
	WAIAKEA ELEMENTARY	524006	EDN105			
	DESIGN AND CONSTRUCTION CLASSROOM BUILD- ING, COVERED WALKWAY, PARKING, EQUIPMENT AND APPURTENANCES.					
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING					60 1,100 12 1,172 C
24.	HANA HIGH SCHOOL GYMNASIUM	602004	EDN105			
	DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW GYMNASIUM FOR HANA HIGH SCHOOL, HANA, MAUI					
	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING					250 250 C 250 C
25.	WAILUKU ELEMENTARY SCHOOL	623009	EDN105			
	LAND ACQUISITION					
	LAND TOTAL FUNDING					200 200 C
26.	MAKAWAO INTERMEDIATE SCHOOL	625002	EDN105			
	PLAN, DESIGN AND CONSTRUCT FIRST INCRE- MENT, CLASSROOMS, PARKING, PLAYCOURT, PLAY- FIELD, GROUND AND SITE IMPROVEMENTS.					
	PLANS DESIGN CONSTRUCTION EQUIPMENT					5,900 20

Capital Improvement Projects

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F		
	TOTAL FUNDING			AGS	5,920 C	C	5,920 C		
27.	MAKAWAO INTERMEDIATE SCHOOL	625003	EDN105						
	DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.								
	DESIGN				175		175		
	CONSTRUCTION					2,000	2,000		
	EQUIPMENT					22	22		
	TOTAL FUNDING			AGS	175 C	2,022 C	2,197 C		
28.	MAKAWAO INTERMEDIATE SCHOOL	625004	EDN105						
	DESIGN AND CONSTRUCT PE LOCKER SHOWER FACILITY, GROUND AND SITE IMPROVEMENTS.								
	DESIGN				80		80		
	CONSTRUCTION					955	955		
	EQUIPMENT					10	10		
	TOTAL FUNDING			AGS	80 C	965 C	1,045 C		
29.	KAPAA ELEMENTARY	703003	EDN105						
	DESIGN AND CONSTRUCT CLASSROOM BUILDING, EQUIPMENT AND APPURTENANCES.								
	DESIGN					60	60		
	CONSTRUCTION								

EQUIPMENT TOTAL FUNDING		AGS		C		60 C		60 C	
30.	KAPAA HIGH AND INTER DESIGN AND CONSTRUCT 12 CLASSROOMS, TWC, EQUIPMENT AND APPURTENANCES.	704003	EDN105						
	DESIGN								
	CONSTRUCTION			3,190				3,190	
	EQUIPMENT			30				30	
	TOTAL FUNDING			3,220 C				3,220 C	
31.	KEKAHA SCHOOL DESIGN AND CONSTRUCT CLASSROOM BUILDING, EQUIPMENT AND APPURTENANCES.	707002	EDN105						
	DESIGN								
	CONSTRUCTION								
	EQUIPMENT								
	TOTAL FUNDING								
32.	WILCOX ELEMENTARY DESIGN AND CONSTRUCT CLASSROOM BUILDING, EQUIPMENT AND APPURTENANCES.	713002	EDN105						
	DESIGN								
	CONSTRUCTION								
	EQUIPMENT								
	TOTAL FUNDING								
	INSTITUTIONAL ADMINISTRATION AND SUPPORT PHYSICAL PLANT OPERATIONS & MAINTENANCE-AGS								
32A.	PHYSICAL PLANT OPERATION AND MAINTENANCE	LH002	AGS807						
	CONSTRUCTION FOR MAJOR REPAIR/REPLACEMENT/MAINTENANCE OF PUBLIC SCHOOL FACILITIES.								
	CONSTRUCTION								
	TOTAL FUNDING								

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	PUBLIC SERVICE PUBLIC LIBRARIES							
32B.	HAWAII STATE LIBRARY REPAIRS	001-1	EDN407					
	UPGRADE ROOF ELECTRICAL STRUCTURE AND OTHER MINOR REPAIRS TO A STRUCTURE OVER FIFTY YEARS OLD							
	DESIGN				50		50	
	CONSTRUCTION			AGS		550	550	
	TOTAL FUNDING				50 C	550 C	600 C	
33.	KALIHI PALAMA LIBRARY	028-1	EDN407					
	IMPROVE LIGHTING IN THE READING AREAS OF THE LIBRARY AND REMOVE ASBESTOS FROM CEILING							
	DESIGN				25		25	
	CONSTRUCTION			AGS	175		175	
	TOTAL FUNDING				200 C	C	200 C	
33A.	PEARL CITY REGIONAL LIBRARY EXPANSION	032-1	EDN407					

EXPAND MAIN READING AREA TO ACCOMMODATE ADDITIONAL BOOKS AND MATERIAL REGIONAL LIBRARY SERVES AS RESOURCE LIBRARY FOR SEVEN COMMUNITY LIBRARIES IN THE WEST OAHU LIBRARY DISTRICT

DESIGN 55 55
CONSTRUCTION
TOTAL FUNDING 55 C C 55 C

33B. KAHULUI LIBRARY, MAUI 051-3 EDN407

EXPANSION AND RENOVATION OF LIBRARY TO SERVE AS REGIONAL LIBRARY FOR MAUI DISTRICT EXPANSION OF MAIN READING AND BOOK STACK AREA.

DESIGN 50 50
CONSTRUCTION
EQUIPMENT
TOTAL FUNDING 50 C C 50 C

33C. HAWAII STATE LIBRARY, STATEWIDE RESOURCE CENTER LS0005 EDN407

PLANS FOR A STATEWIDE RESOURCE CENTER, INCLUDING PROJECT DEVELOPMENT REPORTS.

DESIGN 100 100
CONSTRUCTION
TOTAL FUNDING 100 C 100 C

HIGHER EDUCATION
UNIVERSITY OF HAWAII, MANOA
INSTRUCTION - UOH, MANOA

36A. BILGER HALL RENOVATIONS 006 UOH101

UNIVERSITY OF HAWAII, MANOA CAMPUS RENOVATIONS TO BILGER HALL TO REFURBISH OLD, OBSOLETE FACILITIES CONSTRUCTED IN 1952, TO MODERNIZE FACILITIES, TO MEET HEALTH AND SAFETY REQUIREMENTS, AND TO MAKE IT ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. APPROXIMATELY 50,000 ASF; 75,000 GSF

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
37.	DESIGN	022	UOH101	AGS		310	310	
	CONSTRUCTION							
	EQUIPMENT							
	TOTAL FUNDING					310 C	310 C	
	GEORGE HALL RENOVATIONS							
	RENOVATIONS TO ACCOMMODATE THE SCHOOL OF TRAVEL INDUSTRY MANAGEMENT INCLUDING IMPROVEMENTS TO LIGHTING, ACOUSTICS, VENTILATION AND CIRCULATION SYSTEMS.							
	DESIGN	043	UOH101	AGS		32	32	
	CONSTRUCTION				3,697		3,697	
	EQUIPMENT					360	360	
	TOTAL FUNDING				3,697 C	392 C	4,089 C	
38.	AGRICULTURAL SCIENCES FACILITIES, PHASE IIA	043	UOH101	AGS				
	DESIGN							
	CONSTRUCTION							
	EQUIPMENT							
	TOTAL FUNDING							
	DESIGN, CONSTRUCTION AND FURNITURE AND EQUIPMENT FOR FACILITIES FOR THE DEPARTMENT OF AGRONOMY AND SOIL SCIENCE, & AGRICULTURAL SERVICES CENTER							
	DESIGN	049	UOH101	AGS	72		72	
	CONSTRUCTION							
	EQUIPMENT				1,200		1,200	
	TOTAL FUNDING				1,272 C	C	1,272 C	
39.	SWIMMING POOL COMPLEX, PHASE II	049	UOH101	AGS				
	DESIGN							
	CONSTRUCTION							
	EQUIPMENT							
	TOTAL FUNDING							

DESIGN, CONSTRUCTION AND FURNITURE AND EQUIPMENT FOR THE SWIMMING POOL COMPLEX, PHASE II

DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	250 272 C	C	250 272 C
39A. PHYSICAL EDUCATION FACILITIES, SECOND IN- CREMENT DESIGN, CONSTRUCTION AND EQUIPPING OF FA- CILITIES FOR THE PHYSICAL EDUCATION, INTRA- MURALS AND ATHLETIC PROGRAMS INCLUDING REPLACEMENT OF KLUM GYM, EXPANSION OF LOCKER ROOMS CLASSROOMS, SEMINAR ROOMS, TEACHING AND RESEARCH LABORATORIES.	050	UOH101		22 22
DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING				360 360
39B. OLD QUAD AREA RESTROOM FACILITIES REPLACEMENT OF RESTROOM FACILITIES RE- MOVED FROM THE BUSINESS ADMINISTRATION COMPLEX AND OTHER IMPROVEMENTS.	068	UOH101		360 360 C
DESIGN CONSTRUCTION TOTAL FUNDING				57 57
40. RENOVATION OF EXISTING FACILITIES FOR SPEECH PATHOLOGY AND AUDIOLOGY RENOVATION TO EXISTING FACILITIES TO RELO- CATE THE DIVISION OF SPEECH PATHOLOGY AND AUDIOLOGY OF THE SCHOOL OF MEDICINE.	072	UOH101		57 C 57 C
DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING				34 306 30

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	TOTAL FUNDING			AGS	370 C	C	370 C	
40A.	EDMONDSON HALL, EXPLOSION REPAIRS	073	UOH101					
	RENOVATION AND REPAIRS TO THE FIRST AND SECOND FLOORS OF EDMONDSON HALL WHICH WERE DAMAGED BY GAS EXPLOSION							
	DESIGN					25	25	
	CONSTRUCTION					420	420	
	EQUIPMENT					35	35	
	TOTAL FUNDING			AGS	A C	A C	A C	
						480 C	480 C	
40B.	MEDICAL SCHOOL DEVELOPMENT	LS0006	UOH101					
	UNIVERSITY OF HAWAII AT MANOA, DEVELOPMENT OF FACILITIES FOR A 4-YEAR MEDICAL SCHOOL TO BE DEVELOPED AT KUAKINI MEDICAL CENTER AND AT OTHER HOSPITALS IN ACCORDANCE WITH AFFILIATION AGREEMENTS AND FEDERAL GRANT REQUIREMENTS. PHASE I, UNIVERSITY GERONTOLOGY FACILITY AT KUAKINI MEDICAL CENTER.							
	CONSTRUCTION					586	586	
	TOTAL FUNDING			AGS	C	586 C	586 C	
	ORGANIZED RESEARCH - UOH, MANOA							

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
42.	CAMPUS HOUSING FACILITIES, PHASE 5 UNIVERSITY OF HAWAII, MANOA CAMPUS DESIGN, CONSTRUCTION, FURNITURE & EQUIPMENT FOR STUDENT HOUSING FACILITIES, TO PROVIDE ACCOMMODATIONS FOR APPROXIMATELY 500 PEOPLE.	207	UOH105			150	150
	PLANS						
	DESIGN						
	CONSTRUCTION						
	EQUIPMENT			AGS	B	150 B	150 B
	TOTAL FUNDING				E	E	E
43.	UNIVERSITY OF HAWAII BASEBALL STADIUM COMPLEX	217	UOH105				
	PLANS AND CONSTRUCTION FOR DEVELOPMENT OF A BASEBALL STADIUM COMPLEX, INCLUDING RENOVATIONS AND MODIFICATIONS.						
	DESIGN						
	CONSTRUCTION				2,740		2,740
	TOTAL FUNDING			AGS	2,740 C	C	2,740 C
44.	SNACK BAR REPLACEMENT UNIVERSITY OF HAWAII AT MANOA	222	UOH105				
	DESIGN, CONSTRUCTION AND EQUIPPING OF REPLACEMENT OF SNACK BAR ON MAILE WAY TO MAKE WAY FOR THE CONSTRUCTION OF HAMILTON LIBRARY, PHASE III						

LINE NO.	DESCRIPTION	AGENCY	AMOUNT	DATE	STATUS	REMARKS
44A.	DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	152	152		
	CAMPUS CENTER					
	LANAI COVER					
	DESIGN AND CONSTRUCTION OF LANAI COVER AT CAMPUS CENTER	UOH105	223			
	DESIGN CONSTRUCTION TOTAL FUNDING					
44B.	HALE ALOHA WORKSHOP ADDITION DESIGN AND CONSTRUCTION OF WORKSHOP AD- DITION AT HALE ALOHA	AGS	17 108 125 B	17 108 125 B		
	DESIGN CONSTRUCTION TOTAL FUNDING					
44C.	UHM BOOKSTORE NEW GROUND FLOOR ENTRANCE DESIGN AND CONSTRUCTION OF NEW GROUND FLOOR ENTRANCE TO UHM BOOKSTORE	AGS	5 20 25 B	5 20 25 B		
	DESIGN CONSTRUCTION TOTAL FUNDING					
44D.	UNIVERSITY OF HAWAII BASEBALL STADIUM COMPLEX	AGS	150 150 B	150 150 B		
	DESIGN CONSTRUCTION TOTAL FUNDING					

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	DESIGN AND CONSTRUCTION FOR INSTALLATION OF SYNTHETIC TURF, FENCE AND DRAINAGE SYSTEM FOR THE UNIVERSITY OF HAWAII BASEBALL STADIUM COMPLEX. SUPPLEMENT TO PRIOR APPROPRIATIONS TO BE USED FOR COMPLETION OF STADIUM ROOF. THE ROOF IS TO COVER SEVENTEEN BAYS.						
	DESIGN					160	
	CONSTRUCTION					3,235	
	TOTAL FUNDING			AGS	C	3,395 C	
	INSTITUTIONAL SUPPORT - UOH, MANOA						
46.	MODIFICATIONS TO EXISTING FACILITIES TO MEET HOSHA AND OTHER CODE REQUIREMENTS	250	UOH06				
	MODIFICATIONS TO EXISTING FACILITIES TO MEET HOSHA AND OTHER CODE REQUIREMENTS						
	DESIGN				30	30	
	CONSTRUCTION				256	256	
	EQUIPMENT				14	14	
	TOTAL FUNDING			AGS	300 C	300 C	
47.	MODIFICATIONS TO EXISTING FACILITIES FOR THE PHYSICALLY HANDICAPPED	255	UOH06				
	MODIFICATIONS TO RESTROOMS AND ELEVATORS AND THE INSTALLATION OF NEW ELEVATORS AND RAMPS IN EXISTING BUILDINGS TO SERVE THE HANDICAPPED IN WHEELCHAIRS.						

DESIGN CONSTRUCTION TOTAL FUNDING				25 175 200 C	25 175 200 C	50 350 400 C
48. ENERGY CONSERVATION MODIFICATIONS	257	UOH106				
MODIFICATIONS TO EXISTING FACILITIES TO CONSERVE ENERGY AND INSTALLATION OF ENERGY CONSERVATION MEASURES (FUNDS MAY BE EXPENDED BY THE UNIVERSITY OF HAWAII TO SUPPLEMENT FEDERAL/STATE MATCHING FUNDS FOR ENERGY CONSERVATION MEASURES.)						
DESIGN CONSTRUCTION TOTAL FUNDING				45 455 500 C		45 455 500 C
UNIVERSITY OF HAWAII, HILO INSTRUCTION - UOH, HILO			AGS		C	
49. RENOVATION OF EXISTING BUILDINGS. UNIVERSITY OF HAWAII AT HILO. DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT TO IMPROVE COLLEGE HALL, OLD LIBRARY, OTHER BUILDINGS, AND TO RELOCATE AND RENOVATE PORTABLE BUILDINGS, AND TO PROVIDE NEW SPACE TO ACCOMMODATE CHANGING AND EXPANDING PROGRAMS.	333	UOH211				
DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING				15 1,900 60 1,975 C		15 1,900 60 1,975 C
INSTITUTIONAL SUPPORT - UOH, HILO			AGS		C	
50. GENERAL UTILITIES, ROADS & SITE IMPROVEMENTS UNIVERSITY OF HAWAII AT HILO DESIGN AND CONSTRUCTION OF SITE IMPROVEMENTS AND UTILITIES FOR THE UNIVERSITY OF HAWAII AT HILO CAMPUS.	433	UOH216				
DESIGN				45		45

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
51.	CONSTRUCTION					455	455	455
	TOTAL FUNDING			AGS	45	455	500	C
	HONOLULU COMMUNITY COLLEGE							
	INSTRUCTION - HONOLULU COMMUNITY COLLEGE							
	HONOLULU CC-AUTO MECHANIC SHOP, INCLUDING SITE DEVELOPMENT	A15	UOH301					
	DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT TO PROVIDE SHOPS, CLASSROOMS, SPECIALIZED FACILITIES AND OFFICES FOR THE AUTO MECHANICS PROGRAM, AND PARKING LOT, INCLUDING GENERAL UTILITIES, STREET LIGHTING, AND LANDSCAPING.							
	DESIGN				74		74	
	CONSTRUCTION				4,208	322	4,530	
	EQUIPMENT				606		606	
	TOTAL FUNDING			AGS	4,888	322	5,210	C
52.	INSTITUTIONAL SUPPORT - HONOLULU CC							
	HONOLULU CC - ENERGY CONSERVATION MEASURES	A76	UOH305					
	DESIGN, CONSTRUCTION AND EQUIPMENT TO MODIFY EXISTING BUILDINGS AND UTILITIES SYSTEMS TO CONSERVE ENERGY.							

DESIGN CONSTRUCTION TOTAL FUNDING	98 451 549	98 451 549	98 451 549
KAPIOLANI COMMUNITY COLLEGE INSTRUCTION - KAPIOLANI COMMUNITY COLLEGE			
53. KAPIOLANI CC, DIAMOND HEAD - BUILDINGS B, D AND SITE PREPARATION. DESIGN, CONSTRUCTION, FURNITURE AND EQUIP- MENT FOR DEVELOPING FACILITIES INCLUDING SITE WORK, ROADWAYS, UTILITIES AND BUILD- INGS.	B30	UOH311	
CONSTRUCTION EQUIPMENT TOTAL FUNDING			615 615
54. KAPIOLANI CC, DIAMOND HEAD - BUILDINGS A, C AND SITE PREPARATION. DESIGN, CONSTRUCTION, FURNITURE AND EQUIP- MENT FOR DEVELOPING FACILITIES INCLUDING SITE WORK, ROADWAYS, UTILITIES AND BUILD- INGS.	B31	UOH311	
CONSTRUCTION EQUIPMENT TOTAL FUNDING			8,069 8,069
INSTITUTIONAL SUPPORT - KAPIOLANI CC			
55. KAPIOLANI CC, DIAMOND HEAD - ROADWAY IMPROVEMENTS, INCREMENTS 1 & 2 DESIGN AND CONSTRUCTION OF STREET WIDEN- ING, SIDEWALKS, STREET LIGHTS, SIGNAL LIGHTS AND UNDERGROUND UTILITIES.	B06	UOH315	
CONSTRUCTION EQUIPMENT TOTAL FUNDING			82 643 779
56. KAPIOLANI CC - ENERGY CONSERVATION MEAS- URES	B07	UOH315	
CONSTRUCTION EQUIPMENT TOTAL FUNDING			82 643 779

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
57.	DESIGN, CONSTRUCTION AND EQUIPMENT TO MODIFY EXISTING BUILDINGS AND UTILITIES SYSTEMS TO CONSERVE ENERGY.							
	DESIGN				13		13	
	CONSTRUCTION			AGS	88		88	
	TOTAL FUNDING				101 C		101 C	
58.	LEEWARD COMMUNITY COLLEGE INSTITUTIONAL SUPPORT - LEEWARD CC							
	LEEWARD CC - ENERGY CONSERVATION MEASURES	L80	UOH325					
	DESIGN, CONSTRUCTION AND EQUIPMENT TO MODIFY EXISTING BUILDINGS AND UTILITIES SYSTEMS TO CONSERVE ENERGY.							
	DESIGN				20		20	
58.	CONSTRUCTION			AGS	135		135	
	TOTAL FUNDING				155 C		155 C	
	MAUI COMMUNITY COLLEGE INSTITUTIONAL SUPPORT-MAUI COMMUNITY COLLEGE							
	MAUI CC-SITE DEVELOPMENT	M75	UOH505					
	CLEARING, GRADING AND LANDSCAPING OF UNDEVELOPED LANDS, INCLUDING ADDITIONAL PARKING, ROADWAYS, LIGHTING, AND UTILITIES.							

DESIGN CONSTRUCTION TOTAL FUNDING		AGS	379	379 C	128	128 C	507	507 C
KAUAI COMMUNITY COLLEGE INSTRUCTION-KAUAI COMMUNITY COLLEGE								
59.	KAUAI COMMUNITY COLLEGE-SOCIAL SCIENCES LABORATORY	LS0013	UOH601					
	PLANS, CONSTRUCTION AND EQUIPMENT TO PRO- VIDE LABORATORIES, OFFICES AND SUPPORT SPACES FOR THE SOCIAL SCIENCES PROGRAM.							
	EQUIPMENT		33	33 C			33	33 C
	TOTAL FUNDING							
59A.	KAUAI COMMUNITY COLLEGE-EXTENSION TO WELDING SHOP	LS0014	UOH601					
	DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE EXTENSION OF WELDING SHOP BUILDING TO HOUSE MACHINE SHOP.							
	EQUIPMENT		17	17 C	25	25 C	42	42 C
	TOTAL FUNDING							
	INSTITUTIONAL SUPPORT - KAUAI CC							
60.	KAUAI CC - ENERGY CONSERVATION MEASURES	K83	UOH605					
	DESIGN, CONSTRUCTION AND EQUIPMENT TO MODIFY EXISTING BUILDINGS AND UTILITIES SYSTEMS TO CONSERVE ENERGY.							
	DESIGN		27				27	
	CONSTRUCTION		187				187	
	TOTAL FUNDING		214 C				214 C	
	HIGHER EDUCATION STATE-WIDE SUPPORT							
	INSTITUTIONAL SPPT-UOH, SYSTEM-WIDE SPPT							
62.	REMOVAL, ENCAPSULATION & ENCLOSURE OF ASBESTOS MATERIALS, STATEWIDE, UNIV OF HAWAII	529	UOH903					
	CORRECTIONS AND RENOVATIONS TO UNIVERSITY BUILDINGS WITH IDENTIFIED ASBESTOS HAZARDS							

Capital Improvement Projects

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85	F
	DESIGN CONSTRUCTION TOTAL FUNDING			AGS	175 1,825 2,000	C	175 1,825 2,000	C
	H. CULTURE AND RECREATION CULTURAL ACTIVITIES HISTORICAL AND ARCHAEOLOGICAL PLACES							
1.	STATEWIDE HISTORIC PRESERVATION PROGRAM PLANNING, APPRAISAL AND ACQUISITION OF SIGNIFICANT SITES THREATENED BY DEVELOPMENT.	F10	LNR801					
	PLANS LAND CONSTRUCTION TOTAL FUNDING			LNR	50	40 10	90 10	A C
2.	IOLANI PALACE RESTORATION RESTORATION OF CORONATION STAND AND PARTIAL WALL AND IRON FENCE SURROUNDING THIS HISTORIC SITE, LANDSCAPING AND REMODELING OF KAMAINA BUILDING AS AN ORIENTATION BUILDING.	F11	LNR801		A 50	A 50	A 100	C
	LAND DESIGN CONSTRUCTION					100 900	100 900	

TOTAL FUNDING		LNR		C		1,000 C		1,000 C	
3.	LAPAKAHI NORTH KOHALA STATE PARK COM- PLEX	F13	LNR801						
	LAND ACQUISITION, PLANNING, RESEARCH, AND INCREMENTAL DEVELOPMENT OF THE NORTH KOHALA ARCHAEOLOGICAL AND HISTORIC SITES WHICH OFFERS AN OPPORTUNITY FOR PUBLIC IN- TERPRETATION OF EARLY HAWAIIAN FISHING AND FARM SYSTEM. OTHER FEATURES INCLUDE KAMEHAMEHA'S BIRTHPLACE, MOOKINI HEIAU AND OTHER FEATURES IN THE AREA.								
	PLANS								
	LAND								
	DESIGN								
	CONSTRUCTION								
	TOTAL FUNDING								
				10	A	20	200	A	220 C
				10 C	210 C				
4.	KEALAKEKUA BAY	F14	LNR801						
	INCREMENTAL ACQUISITION, PLANNING, RE- SEARCH AND DESIGN FOR A PARK COMPRISING THE MOST IMPORTANT HISTORIC AND ARCHAEO- LOGIC PLACE IN THE ENTIRE STATE, PLANNING AND RESEARCH WILL BE FOLLOWED BY PARK DEVELOPMENT, CONTINUED RESEARCH AND IN- TERP. RETIVE FACILITIES.								
	PLANS			25		25	50		
	LAND								
	DESIGN					50	50		
	CONSTRUCTION					500	500		
	TOTAL FUNDING								
						A	A	A	
				25 C	575 C		600 C		
	AQUARIA								
4A.	HAWAIIAN ISLANDS AQUARIUM	LH005	UOH881						

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)		
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
PROGRAM & SCHEMATIC DESIGN FOR A NEW HAWAIIAN ISLANDS AQUARIUM INCLUDING ENCLOSED AND OPEN AIR EXHIBITS; ADMINISTRATION, CLASSROOM AND RELATED FACILITIES; AND OTHER APPURTENANCES.							
	DESIGN			AGS	300 C	300 C	300 C
	TOTAL FUNDING						
HAWAII PUBLIC BROADCASTING							
5.	REPLACE HPBA TRANSMITTERS, ANTENNA, AND FEEDLINES	HPBA01	CCA701				
	REPLACEMENT OF KHET TRANSMITTER AND ANTENNA ON OAHU, REPLACEMENT OF KMEB TRANSMITTER AND FEEDLINES ON MAUI						
	EQUIPMENT				250 C	250 C	250 C
	TOTAL FUNDING			AGS	250 C	C	250 C
6.	REPLACE HPBA STUDIO CAMERAS	HPBA02	CCA701				
	REPLACEMENT OF STUDIO CAMERAS						
	EQUIPMENT						
	TOTAL FUNDING			AGS		520 C	520 C
7.	ACQUISITION OF A COMPUTER EDITING SYSTEM	HPBA03	CCA701				
					C	520 C	520 C

ACQUISITION OF A SPECIAL COMPUTER EDITING CONTROLLER, SPECIAL VIDEO AND AUDIO SIGNAL SWITCHER, AND MAGNETIC DISC AND/OR PAPER TAPE STORAGE MEDIA.

EQUIPMENT
TOTAL FUNDING

RECREATIONAL ACTIVITIES
PARKS RECREATION

8. AKAKA FALLS

F35 LNR806

DEVELOP A MASTER PLAN FOR THIS EXISTING PARK. CONSIDER IMPROVEMENTS SUCH AS PARK EXPANSION TO A NEW LOOKOUT AREA. AN INTERPRETIVE PROGRAM, REDESIGN OF EXISTING LOOKOUT AND TRAIL DEVELOPMENT TO CORRECT HAZARDOUS CONDITIONS

DESIGN
CONSTRUCTION
TOTAL FUNDING

LNR

9.

WAILUA RIVER STATE PARK

F54 LNR806

LAND ACQUISITION OF INHOLDINGS. ARCHAEOLOGICAL-BIOLOGICAL RESEARCH, DEVELOPMENT OF INTERPRETIVE PROGRAM AND FACILITIES ACCORDING TO MASTER PLAN INCL. FERN GROTTTO, LYDGATE BEACH MARINA AND OTHER AREAS ALONG WAILUA RIVER. (FORMER LNR-803 PROJECT F31 AND LNR-805-F76 AS WELL AS PROJECT F54) UPDATE MASTER PLAN & PROVIDE MANAGEMENT PLAN. RECONSTRUCTION OF PARK FACILITIES

PLANS
LAND
DESIGN
CONSTRUCTION
TOTAL FUNDING

LNR

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
10.	SAND ISLAND STATE RECREATION AREA INCREMENTAL DEVELOPMENT OF BEACH PARK, PLANS AND CONSTRUCTION, INCLUDING DESIGN AND CONSTRUCTION OF A FISHING PIER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.	F70	LNR806					
	PLANS				5		5	
	DESIGN				5	50	55	
	CONSTRUCTION				130	500	630	
	TOTAL FUNDING			LNR	140 C	550 C	690 C	
11.	KAENA POINT STATE PARK INCREMENTAL ACQUISITION OF PRIVATE LANDS, DEVELOPMENT OF BEACH PARKS FROM MAKUA TO MOKULEIA. ALSO INCLUDES FUNDS FOR TEMPORARY MANAGEMENT OF SHORELINE AREAS TO CONTROL EXISTING PUBLIC USE. INCLUDES UPLAND PEACOCK FLATS AREA AS PER MASTER PLAN.	F72	LNR806					
	LAND				500		500	
	DESIGN				60		60	
	CONSTRUCTION				75	75	150	
	TOTAL FUNDING			LNR	635 C	75 C	710 C	
12.	HAPUNA BEACH STATE PARK.	F75	LNR806					

PLANS AND CONSTRUCTION, INCLUDING ACQUISITION OF LAND, AS PER MASTER PLAN.

LAND					
DESIGN					
CONSTRUCTION					
TOTAL FUNDING					

5 15 20
20 180 200
25 C 195 C 220 C

LNR

13. NA PALI COAST STATE PARK F80 LNR806

PROVISION OF CAMPING, AND HIKING FACILITIES, PROTECTION AND INTERPRETATION OF HISTORIC AND ARCHAEOLOGICAL SITES, MANAGEMENT FACILITIES FOR WILDERNESS TYPE PARK RESEARCH OF CULTURAL AND NATURAL FEATURES, AND PLANNING FOR THE MANAGEMENT OF THESE FEATURES AND PUBLIC USE OF THE AREA.

PLANS					
LAND					
DESIGN					
CONSTRUCTION					
TOTAL FUNDING					

10 40 50
40 C 50 C

LNR

13A. UKUMEHAME-KAANAPALI WAYSIDE & F81 LNR806

BEAUTIFICATION
INCREMENTAL DEVELOPMENT OF WAYSIDE PARKS AND BEAUTIFICATION OF SCENIC HIGHWAY FROM UKUMEHAME TO KAAANAPALI. EXISTING PARKS INCLUDE WAHEKULI UKUMEHAME AND LAANIOPOKO WAYSIDES

PLANS					
DESIGN					
CONSTRUCTION					
TOTAL FUNDING					

10 10 10
100 100 110
C 110 C 110 C

LNR

14. WAIMEA PIER F82 LNR806

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
15.	PLANS AND CONSTRUCTION FOR THE RECONSTRUCTION OF WAIHEA LANDING FOR RECREATIONAL PURPOSES. INCLUDES DEVELOPMENT ONSHORE FOR PARKING, RESTROOM FACILITIES, AND LANDSCAPING.							
	LAND				10		10	
	DESIGN				5		5	
	CONSTRUCTION			LNR	10		10	
	TOTAL FUNDING				25 C	C	25 C	
	RAINBOW BAY	F83	LNR806					
	BACKGROUND INVESTIGATION AND PLANNING FOR CONVERSION OF AIEA BAY INTO "RAINBOW BAY - A KOKUA CONCEPT" AS REQUESTED BY THE PEARL HARBOR TASK FORCE. FUNDING INCLUDED FOR ANTICIPATED FIRST PHASE DEVELOPMENT OF LAND AREA BORDERING AIEA BAY. MAXIMUM OF 40 ACRES AVAILABLE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.							
	PLANS							
	LAND							
	DESIGN							
	CONSTRUCTION			LNR	A	A	A	
	TOTAL FUNDING				450	450	450	

16.	SACRED FALLS STATE PARK	H43	LNR806				
	PLANS AND CONSTRUCTION FOR INCREMENTAL DEVELOPMENT OF CAMPING, HISTORIC, RECREATIONAL AND OTHER PARK FACILITIES AS PER MASTER PLAN.						
	LAND					100	100
	DESIGN				5	5	5
	CONSTRUCTION					60	60
	TOTAL FUNDING			LNR	5 C	160 C	165
17.	KONA AIRPORT PARK	H47	LNR806				
	INCREMENTAL DESIGN AND CONSTRUCTION FOR SHORELINE PARK DEVELOPMENT AS DETERMINED BY MASTER PLAN. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.						
	PLANS						
	LAND				15	5	20
	DESIGN					460	460
	CONSTRUCTION			LNR	15 C	465 C	480 C
	TOTAL FUNDING						
17A.	MALAEKAHANA BEACH PARK	H70	LNR806				
	PLANNING FUNDS FOR REFINING OR AMENDING MASTER PLAN, PRE-LAND ACQUISITION STUDIES, LAND ACQUISITION, RESEARCH, INTERPRETIVE PLANNING AND STUDIES, DEVELOPMENT DESIGN AND CONSTRUCTION AS DETERMINED BY MASTER PLAN. FEDERAL AID IS BEING USED FOR THIS PROJECT.						
	PLANS						
	LAND					10	10
	DESIGN					140	140
	CONSTRUCTION			LNR	A	A	A
	TOTAL FUNDING				C	150 C	150 C

Capital Improvement Projects

State of Hawaii

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					Fiscal Year 1983-84	Fiscal Year 1984-85	Fiscal Year 1985-86	Total M	Total O
18.	HANALEI RECREATIONAL PIER, HANALEI, KAUAI	H80	LNR806						
	AI								
	RESTORATION OF HANALEI RECREATIONAL PIER.								
	DESIGN				5	5	10		
	CONSTRUCTION					600	600		
	TOTAL FUNDING			LNR	5 C	605 C	610 C		
18A.	MAKENA-LA PEROUSE STATE PARK, MAUI	LS0007	LNR806						
	LAND ACQUISITION FOR MAKENA-LA PEROUSE STATE PARK. MAY BE USED TO MATCH OTHER NON-STATE FUNDS, AS MAY BE AVAILABLE.								
	LAND								
	TOTAL FUNDING			LNR		1,250	1,250		
	OCEAN-BASED RECREATION				C	1,250 C	1,250 C		
18B.	NAWILIWILI BOAT HARBOR KAUAI	01K	TRN801						
	BERTHING FACILITIES, LOADING DOCK, PAVING, UTILITIES AND OTHER IMPROVEMENTS.								
	DESIGN					70	70		
	CONSTRUCTION								
	TOTAL FUNDING			TRN	D	70 D	70 D		
18C.	LANAI BOAT HARBOR LANAI	01M	TRN801						

18D.	<p>IMPROVEMENTS TO COMFORT STATION, DREDGING, FILL, REVETMENT, PAVING, DRAINAGE AND OTHER IMPROVEMENTS.</p> <p>DESIGN CONSTRUCTION TOTAL FUNDING</p> <p>LAHAINA BOAT HARBOR, MAUI</p> <p>MISCELLANEOUS IMPROVEMENTS AT LAHAINA BOAT HARBOR INCLUDING OFFICE, UTILITIES, DREDGING AND OTHER IMPROVEMENTS.</p> <p>DESIGN CONSTRUCTION TOTAL FUNDING</p> <p>STATEWIDE BOAT LAUNCHING FAC. PROGRAM</p> <p>PLAN, CONSTRUCT AND IMPROVE BOAT LAUNCHING FACILITIES THROUGHOUT THE STATE AT EXISTING AND NEW SITES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT</p> <p>PLANS DESIGN CONSTRUCTION TOTAL FUNDING</p>
18E.	
18F.	<p>KAULANA BOAT LAUNCHING FACILITY, HAWAII</p> <p>PROVIDE IN KIND IMPROVEMENTS FOR LEASE RENTAL OF LANDS.</p> <p>DESIGN CONSTRUCTION TOTAL FUNDING</p> <p>SPECTATOR EVENTS & SHOWS - ALOHA STADIUM</p>

Capital Improvement Projects

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Total M Biennium O 1983-85	F
19.	EMBANKMENT STABILIZATION ON ALOHA STADIUM GROUNDS STABILIZATION AND RESTORATION OF EMBANKMENTS ON STADIUM GROUNDS.	B21	AGS889					
	DESIGN				260		260	
	CONSTRUCTION			AGS	260		260	
	TOTAL FUNDING					C		C
20.	CORROSION PROTECTION OF THE STRUCTURAL FRAMING ELEMENT CLEAN, REPAIR, SANDBLAST AND PAINT ALL BADLY CORRODED AREAS OF THE STRUCTURAL FRAMING ELEMENTS AND CORRECT THE PRIMARY CAUSES OF THE CONTINUING CORROSION.	B68	AGS889					
	DESIGN				300		300	
	CONSTRUCTION				3,000		3,000	
	TOTAL FUNDING			AGS	3,300	C	3,300	C
21.	RENOVATION OF SEATING AREAS RENOVATION OF THE SEAT PLATES, BLEACHER UNITS, SEAT STANDARDS AND OTHER AREAS BY REPAIRING, RUSTPROOFING AND PAINTING AND REPAIR THE DRAINAGE SYSTEM.	B69	AGS889					
	DESIGN							175
	CONSTRUCTION							1,550

TOTAL FUNDING

AGS

C

1,725 C

1,725 C

1,725 C

GENERAL ADMIN FOR CULTURE & RECREATION

F05 LNR809

SCORP (STATE COMPREHENSIVE OUTDOOR RECREATION PLAN) CONTINUOUS UPDATING OF THE STATE COMPREHENSIVE OUTDOOR RECREATION PLAN TO QUALIFY FOR FEDERAL GRANTS UNDER THE LAND AND WATER CONSERVATION FUND. ALSO REFINED AND IMPLEMENT THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAII STATE PLAN AS PROVIDED IN CHAPTER 226, HAWAII REVISED STATUTES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS
TOTAL FUNDING
100
A
C
N
50 C
50 N
100
A
C
N
50 C
50 N

LNR

H09 LNR809

STATEWIDE MINOR IMPROVEMENTS
MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENTS TO PARK FACILITIES

DESIGN
CONSTRUCTION
TOTAL FUNDING
5
50
55 C
5
50
55 C
10
100
110 C

LNR

I. PUBLIC SAFETY
SAFETY FROM CRIMINAL ACTIONS
CONFINEMENT
KULANI CORRECTIONAL FACILITY

CD7918 SOC403

1A. KULANI CORRECTIONAL FACILITY WATER SYSTEM

PLAN, DESIGN, AND CONSTRUCT A WATER SYSTEM AT THE KULANI CORRECTIONAL FACILITY TO SUPPLEMENT THE EXISTING WATER STORAGE FACILITIES.

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					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
	PLANS					35		35
	DESIGN					1,220		1,220
	CONSTRUCTION					5		5
	EQUIPMENT			AGS	A	A		A
	TOTAL FUNDING				C	1,260		1,260
	GENERAL SUPPORT - CRIMINAL ACTION							
	GENERAL ADM - CONFINEMENT							
1.	OAHU MEDIUM SECURITY CORRECTIONAL FACILITY	8203	SOC493					
	FOR THE ACQUISITION OF LAND AND THE PLANNING, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MEDIUM SECURITY CORRECTIONAL FACILITY							
	PLANS					521		521
	LAND					1,400		1,400
	DESIGN					25,000		50,000
	CONSTRUCTION							
	EQUIPMENT							
	TOTAL FUNDING			AGS	26,921	25,000		51,921
	SAFETY FROM PHYSICAL DISASTERS							
	AMELIORATION OF PHYSICAL DISASTERS							
2.	WAIHAWA ARMY NATIONAL GUARD ARMORY ADDITION	A25	DEF110					

PLANNING AND CONSTRUCTION OF AN ADDITION TO AND UPGRADING OF THE EXISTING WAHIA- WA ARMORY. ADDITION WILL BE OF PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN	120	120
CONSTRUCTION	1,880	1,880
TOTAL FUNDING	800 C	800 C
	1,200 N	1,200 N

AGS

C N

A29 DEF110

3. ADDITIONAL IMPROVEMENTS AT THE DEPTL ADMIN BLDG & 100-MAN ARMORY, & ENGINEERING OFFICE

PLANNING AND CONSTRUCTION OF ADDITIONAL IMPROVEMENTS AT THE DEPARTMENTAL ADMINISTRATION BUILDING AND 100-MAN ARMORY FOR PROVIDING FACILITIES FOR THE JOINT STAFF OF THE ADJUTANT GENERAL'S OFFICE, THE RECRUITING AND RETENTION OFFICE, AND THE HAWAII AREA COMMAND TO INCLUDE ADMINISTRATIVE SPACE, PARKING, LANDSCAPING, FENCING, AND OTHER IMPROVEMENTS. RELOCATION OF ENGINEERING OFFICE

DESIGN	650	650
CONSTRUCTION	650	650
TOTAL FUNDING	C	C

AGS

650 650 C

A31 DEF110

4. ADDITIONAL IMPROVEMENTS TO NATIONAL GUARD ARMORIES

Capital Improvement Projects

State of Hawaii

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					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Total M Biennium O 1983-85
	PLANNING AND CONSTRUCTION OF ADDITIONAL IMPROVEMENTS AT ALL NATIONAL GUARD ARMORIES TO UPGRADE FACILITIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA AND TO MEET OTHER UNIT REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.				25	25	50	
	DESIGN				100	100	200	
	CONSTRUCTION			AGS	125 C	125 C	250 C	
	TOTAL FUNDING				N	N	N	
5.	ARMY NATIONAL GUARD ARMORY, WHEELER AFB, HAWAII	A35	DEF110					
	PLANNING & CONSTRUCTION OF THE EXPANSION OF THE EXISTING ARMY AVIATION SUPPORT FACILITIES & A SPECIAL DESIGNED ARMORY FACILITY OF PERMANENT STEEL AND MASONRY TYPE CONSTRUCTION, AND INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.				25	25	50	
	DESIGN				1,225	1,225	2,450	
	CONSTRUCTION			AGS	250 C	250 C	500 C	
	TOTAL FUNDING							

1,000 N

N

1,000 N

6. UPGRADE OF DISASTER WARNING AND COMMUNICATION DEVICES STATEWIDE
INCREMENTAL UPGRADE OF CIVIL DEFENSE DISASTER WARNING AND COMMUNICATION DEVICES STATEWIDE DUE TO INADEQUATE WARNING COVERAGE OF MANY 20+ YR OLD EXISTING DEVICES. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. ALSO THE RENOVATION AND/OR UPGRADE OF DAMAGED DEVICES FROM NATURAL AND/OR MAN-MADE DISASTERS. THIS PROJECT IS NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS	1	1	2
LAND	1	1	2
DESIGN	18	18	36
CONSTRUCTION	226	250	476
TOTAL FUNDING	133 C	145 C	278 C
	113 N	125 N	238 N

AGS

7. ADDITIONAL DISASTER WARNING AND COMMUNICATIONS DEVICES, STATEWIDE
INCREMENTAL INSTALLATION OF ADDITIONAL CIVIL DEFENSE DISASTER WARNING SIRENS, OTHER WARNING DEVICES AND COMMUNICATIONS EQUIPMENT, STATEWIDE, TO EXPAND THE COVERAGE OF WARNING SYSTEM TO KEEP PACE WITH NEW DEVELOPMENTS, GROWTH OF COMMUNITIES & POPULATION SHIFTS. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS	1	1	2
LAND	1	1	2
DESIGN	38	38	76
CONSTRUCTION	416	462	878
TOTAL FUNDING	248 C	271 C	519 C
	208 N	231 N	439 N

AGS

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expanding Agency	Fiscal M Year O 1983-84 F	Appropriations (\$1,000's) Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
8.	ADDITIONAL IMPROVEMENTS FOR BIRKHMIR EMERGENCY OPERATING CENTER PLANNING AND CONSTRUCTION OF ADDITIONAL IMPROVEMENTS AT BIRKHMIR EMERGENCY OP- ERATING CENTER FOR WHICH FUNDS WERE NOT AVAILABLE IN THE ORIGINAL CONSTRUCTION. THIS PROJECT IS DEEMED NECESSARY TO QUALI- FY FOR FEDERAL-AID FINANCING OR REIM- BURSEMENT.	C17	DEF110				
	DESIGN					20	20
	CONSTRUCTION					150	150
	EQUIPMENT					30	30
	TOTAL FUNDING			AGS	C	180 C	180 C
					N	20 N	20 N
	K. GOVERNMENT-WIDE SUPPORT EXEC DIRECTN, COORD, & POLICY DEVELOPMENT OFFICE OF THE GOVERNOR						
1.	PROJECT ADJUSTMENT FUND TO ESTABLISH A CONTINGENCY FUND FOR PROI- ECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT (TO BE EXPENDED BY THE OFFICE OF THE GOVERNOR).	G01	GOV100				
	DESIGN			GOV	3,000	3,000	6,000
	TOTAL FUNDING				3,000 C	3,000 C	6,000 C
	POLICY DEVELOPMENT AND COORDINATION						

STATEWIDE PLAN AND COORDINATION

2.	KAKA'AKO COMMUNITY DEVELOPMENT DISTRICT, OAHU	HCD001	PED103
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PLANS AND DESIGNS FOR DEVELOPMENT OF THE KAKA'AKO AREA, INCLUDING ADDRESSING PRESENT NEEDS AS WELL AS LONG-RANGE POTENTIALS. MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS. AS MAY BE AVAILABLE.

PLANS	1	1	2
LAND	1	1	2
DESIGN	1	1	2
CONSTRUCTION	5,497	5,667	11,164
TOTAL FUNDING	PED	A	A
	5,500	5,670	11,170
	C	C	C

**GENERAL SERVICES
PROPERTY MANAGEMENT
PUBLIC LANDS MANAGEMENT**

3.	WAIMANALO DEVELOPMENT, OAHU TREAT-	E04	LNR101
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PLANS AND CONSTRUCTION FOR IMPROVEMENT OF EFFLUENT DISPOSAL SYSTEM AT THE WAIMANALO SEWAGE TREATMENT PLANT

DESIGN	CONSTRUCTION	TOTAL FUNDING
42	B	42
B	LNR	
42	C	42
C		
42	D	42
D		
N	N	N
N		

3A. KAWAINTUI MARSH. OAHU LNR101 LH007

ACQUISITION OF LAND AND WATER RIGHTS AT
KAWAINUI MARSH, OAHU

	5,730	5,730 C
LAND		
TOTAL FUNDING	5,730	5,730 C
LNR	C	C

FACILITIES CONSTRUCTION AND MAINTENANCE

State of Hawaii		Capital Improvement Projects				
Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F	Appropriations (\$1,000's) Fiscal M Year O 1984-85 F Total M Biennium O 1983-85 F
CONSTRUCTION						
4.	KAUNAKAKAI CIVIC CENTER	A39	AGS221			
	LAND ACQUISITION, DESIGN AND CONSTRUCTION OF A NEW STATE OFFICE BUILDING TO ACCOMMODATE VARIOUS AGENCIES					
	LAND					1,198
	DESIGN					1,198
	CONSTRUCTION					
	EQUIPMENT			AGS		
	TOTAL FUNDING				C	1,198 C
5.	STATE OFFICE BLDG. NO. 2, PHASE II	A40	AGS221			
	DESIGN & CONSTRUCT PHASE II OF A NEW STATE OFFICE BUILDING IN THE MILLANI MALL BLOCK TO INCLUDE DEMOLITION, LANDSCAPING AND CONTINUATION OF PHASE I.					
	PLANS					
	DESIGN					14,517
	CONSTRUCTION				14,517	25
	EQUIPMENT			AGS		
	TOTAL FUNDING				14,542 C	14,542 C
6.	NEW MAKAI PARKING GARAGE	A56	AGS221			

DESIGN AND CONSTRUCT A PARKING STRUCTURE ON LOT A TO SERVICE THE STATE BUILDINGS IN THE AREA, TO INCLUDE LANDSCAPING AND DEMOLITION AND TEMPORARY PARKING FACILITIES ON THE JUDICIARY COMPLEX SITE. ALSO INCLUDES OFFICE SPACE IN THE STRUCTURE

DESIGN	90		
CONSTRUCTION	4,726		4,726
TOTAL FUNDING		C	90 C
		D	4,726 D

7. ADVANCE PLANNING, STATEWIDE B27 AGS221

PROVIDE ASSISTANCE TO THE PUBLIC, STATE AND COUNTIES IN MATTERS RELATING TO PUBLIC WORKS DIVISION. IT INCLUDES THE PREPARATION OF REPORTS, STUDIES, INVENTORIES, REVIEWS AND PERFORMANCE OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS.

PLANS	120	120	240
TOTAL FUNDING		A	A
	120 C	120 C	240 C

8. REMODELING STATE OFFICE BUILDINGS B28 AGS221

DESIGN AND CONSTRUCTION OF REMODELING AND UPGRADING STATE OFFICE BUILDINGS, STATEWIDE. THIS PROJECT WILL SUPPLEMENT FUNDS FROM ACT 1/81, ITEM K-10 ALSO INCLUDES EQUIPMENT. RENOVATION OF SPACE IN THE OLD FEDERAL COURTHOUSE BUILDING IS INCLUDED.

DESIGN	54	60	114
CONSTRUCTION	384	400	784
EQUIPMENT	17	20	37
TOTAL FUNDING		480 C	935 C

9. STATE CAPITOL IMPROVEMENTS AND RENOVATIONS B41 AGS221

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Projects	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Biennium O 1983-85 F	Total M
10.	IMPROVEMENTS TO THE BUILDING SYSTEMS INCLUDING, AIR CONDITIONING, OFFICE RENOVATIONS, POOL IMPROVEMENTS, AND OTHER FACILITIES IMPROVEMENTS AND RENOVATIONS FOR THE STATE CAPITOL.							
	DESIGN				79	36		115
	CONSTRUCTION				500	365		865
	TOTAL FUNDING			AGS	579 C	401 C		980 C
11.	KEKUANAOA BUILDING RENOVATION	B56	AGS221					
	DESIGN AND CONSTRUCT ALTERATIONS FOR NEW OCCUPANTS OF SPACE VACATED IN THE KEKUANAOA BUILDING.							
	DESIGN				1,005			1,005
	CONSTRUCTION			AGS	1,005 C	C		1,005 C
11.	TOTAL FUNDING							
	KALANIMOKU BUILDING A/C IMPROVEMENT	B57	AGS221					
	DESIGN AND CONSTRUCTION OF MODIFICATIONS TO THE KALANIMOKU BUILDING AIR CONDITIONING SYSTEM FOR INCREASED EFFICIENCY AND TO MEET ADDITIONAL LOAD REQUIREMENTS							
	DESIGN				902			902
	CONSTRUCTION			AGS	902 C	C		902 C
	TOTAL FUNDING							

12.	WAILUKU COURT BUILDINGS RENOVATION	B58	AGS221				
	RENOVATING THE EXISTING CIRCUIT AND DISTRICT COURT BUILDINGS FOR OFFICE USE BY VARIOUS AGENCIES.						
	PLANS					20	20
	DESIGN					109	109
	CONSTRUCTION						
	EQUIPMENT						
	TOTAL FUNDING			AGS	C	129	129 C
13.	KEKAULUOHI BUILDING, AIR CONDITIONING	B59	AGS221				
	REPLACE AIR CONDITIONING EQUIPMENT COMPONENTS SUBJECT TO FREQUENT REPAIRS, AND ADD NEW AIR CONDITIONING SYSTEM FOR THE BASEMENT ARCHIVES STORAGE						
	DESIGN						45
	CONSTRUCTION						45
	TOTAL FUNDING			AGS	C	45	45 C
14.	KAPUAIWA BUILDING RENOVATION	B67	AGS221				
	DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO ACCOMMODATE NEW OCCUPANTS						
	DESIGN						972
	CONSTRUCTION					11	11
	EQUIPMENT					11	983
	TOTAL FUNDING			AGS	972 C	11 C	983 C

(1) By adding a new Section to read:

"SECTION 83A. Provided that of the general obligation bond funds appropriated to Tourism, Department of Planning and Economic Development (PED 113) for the Waikiki Improvement project, the City and County of Honolulu shall conduct a simulation in Waikiki of the sidewalk widening to demonstrate how all types of vehicles will adjust to the narrowed lanes and to designated loading and unloading zones; provided further that the simulation shall occur before any contracts for the widening of the sidewalks are executed; provided further that the simulation be tested over a sufficient period of time to determine the impact of the proposed widening and to allow for public review and comment; provided further that the City and County of Honolulu shall submit a report twenty days before the convening of the 1985 Regular Session on the results of the simulation."

(2) By adding a new Section to read:

"SECTION 83B. Provided that the Department of Social Services and Housing in its construction of the Oahu Medium Security Correctional Facility (SOC 493) shall allocate a proportional amount of the facility for industrial, agricultural and vocational activities so as to comprise a balanced living environment."

(3) By adding a new Section to read:

"SECTION 83C. Provided that prior to the release of funds for the University Gerontology Facility at Kuakini Medical Center (UOH 101), there shall be established a 20 year lease between the University of Hawaii and Kuakini Medical Center for the 8th floor of Hale Pulama Mau."

SECTION 8. Part VII, Act 301, Session Laws of Hawaii 1983 is amended:

(1) By adding a new Section to read:

"SECTION 91A. Provided that if general fund tax revenues for fiscal year 1983-1984 increase by more than 7.5 per cent over the preceding fiscal year, the Governor, in his discretion, is authorized to use general fund revenues to finance the capital improvement projects authorized in fiscal year 1984-1985 to Physical Plant Operations and Maintenance, Department of Accounting and General Services (AGS 807)."

(2) By adding a new Section to read:

"SECTION 91B. Provided that each agency or department shall lapse at the close of each fiscal year, an amount equal to workers' compensation benefits paid in lieu of general fund salary costs."

(3) By adding a new Section to read:

“SECTION 91C. Provided that for all reports, studies, examinations, audits or post-audits on a program or operation or the financial transactions of a department, office or agency funded by the Legislature and containing recommendations concerning the program, operation or financial transactions audited, the department, office or agency shall submit to the legislative auditor a report in response to the recommendations. The report shall be submitted to the legislative auditor, thirty days prior to the convening of the regular session following the auditor’s report, study, examination, audit or post-audit is made available to the Legislature; and shall include the action taken to implement the recommendations, if any are taken, and the reasons for not implementing the recommendations, if they are not implemented. The auditor shall in-turn compile all required reports or submit a compilation of all such reports to the Legislature prior to the convening of the regular session.”

(4) By amending Section 102 to read:

“SECTION 102. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriations is made; provided, that all appropriations made to be expended in fiscal year 1983-84 and fiscal year 1984-85 which are unencumbered as of June 30, 1986 shall lapse as of that date; and provided, further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement as denoted in Section 80 which appropriations in its entirety the Legislature hereby determines are necessary to qualify for federal aid financing and reimbursement.”

(5) By amending Section 109 to read:

“SECTION 109. All unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II and described in Part V of this Act and shall be considered a supplementary appropriation thereto.”

(6) By amending Section 110 to read:

“SECTION 110. In the event that the amount specified for a capital investment project listed in this Act or in any other Act authorized by the Legislature is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part V of this Act; provided, that such supplemental allotments from the project adjustment fund shall not be used to increase the

scope of the project; and provided, further, that such allotments shall be made no later than June 30, 1986."

(7) By amending Section 113 to read:

"SECTION 113. General revenues of the State of Hawaii may be expended by the Governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disasters; provided, that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided, that the Governor may authorize an increase in repairs and maintenance activities on state facilities to alleviate the unemployment and cope with such emergencies. To accomplish the purpose of this section, the Governor is authorized to transfer to the Building Repairs and Alterations (AGS 233) and the Physical Plant Operations and Maintenance (AGS 807) programs up to \$5,000,000 in savings as may be available from the appropriated funds of any program in this Act, except as provided in Sections 17A, 17B, and 70A."

SECTION 9. SEVERABILITY. If any portion of this Act or its application to any person or circumstance is held to be invalid for any reason, then the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 10. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes pursuant to this section shall be reported to the Legislature at its next session.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. Notwithstanding the provisions of section 23G-16.5, Hawaii Revised Statutes, in printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.¹ Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 301, Session Laws of Hawaii, 1983, not repealed or modified by this Act.

SECTION 12. EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Edited accordingly.

ACT 286

H.B. NO. 2092-84

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known as the Judiciary Supplemental Appropriations Act of 1984.

SECTION 2. This Act amends Act 291, Session Laws of Hawaii 1983.

SECTION 3. Section 3, Act 291, Session Laws of Hawaii 1983, is amended to read:

“SECTION 3. **Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1983, and ending June 30, 1985. The total expenditures and the number of permanently established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

Item No.	Program	Program ID.	FY M 1983-84 O F	FY M 1984-85 O F	Total M Biennium O 1983-85 F
THE JUDICIAL SYSTEM					
1	Court Operations	JUD 101	45.00 *	46.00 *	
2	Courts of Appeal Operating	JUD 102	1,637,335 A	1,603,438 A	3,240,773 A
3	Land Court/Tax Court Operating	JUD 111	4.00 *	4.00 *	
4	Circuit Courts Operating	JUD 112	130,300 A	126,001 A	256,301 A
5	Family Courts Operating	JUD 121	275.00 *	290.00 *	
			9,179,520 A	9,915,254 A	19,094,774 A
			164,425 N	169,214 N	333,639 N
			248.50 *	253.50 *	
			8,771,941 A	8,778,039 A	17,549,980 A
			100,135 N	108,146 N	208,281 N
			479.50 *	520.50 *	
			10,653,194 A	10,836,690 A	21,489,884 A
Support Services					
6	Administrative Director Services	JUD 201	86.00 *	104.00 *	
7	Operating Investment: Capital	JUD 202	3,773,752 A	6,165,449 A	9,939,201 A
8	Law Library Operating	JUD 221	7,367,000 C	8,559,000 C	15,926,000 C
	Driver Education and Training		8.00 *	8.00 *	
	Operating		638,883 A	622,750 A	1,261,633 A
			45.00 *	51.00 *	
			820,744 B	941,443 B	1,762,189 B

SECTION 4. Act 291, Session Laws of Hawaii 1983, is amended:

(1) By adding a new section to read:

“SECTION 7A. Provided that the seven data processing systems analysts and the clerk typist II position authorized in Administrative Director Services (JUD 201) related to the acquisition of a mainframe computer in fiscal year 1984-85, shall not be filled prior to the acquisition of a mainframe computer.”

(2) By adding a new section to read:

“SECTION 8A. Provided that of the general fund appropriation for fiscal year 1984-85 for the Administrative Director Services Program (JUD 201), an additional \$25,000 shall be used for the hire of summer employment.”

SECTION 5. Section 13, Act 291, Session Laws of Hawaii 1983, is amended to read:

“SECTION 13. **Capital Improvement Projects.** The sum of \$15,926,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars and are to be expended by the judiciary).

Item No.	Program	Program ID.	FY M 1983-84 O F	FY M 1984-85 O F	Total M Biennium O 1983-85 F
THE JUDICIAL SYSTEM					
	Support Services				
	Administrative Director Services	JUD 201			
1	Family Court Center, Oahu				
	Planning, land acquisition and design of a Family Court Center.				
	Plans		160		160
	Land Acquisition		2,139		2,139
	Design			1,014	1,014
	Total Funding		2,299 C	1,014 C	3,313 C
2	Renovation of Ali'iolani Hale and Kapuaia Building, Oahu				
	Renovation of both Ali'iolani Hale, to accommodate the Supreme Court Clerk's Office, Law Library and Administrative Director's Office, and Kapuaia Building to accommodate other Judiciary offices.				

Design	8		
Construction	4,187	2,000	6,187
Equipment	57		57
Total Funding	4,252 C	2,000 C	6,252 C
3 Honolulu District Court, Loft Space Improvements, Oahu			
Plans, design and renovate the two loft floors for office and courtroom use and furnish the fifth floor courtroom.			
Plan			5
Design	5		96
Construction	96	987	987
Equipment		108	108
Total Funding	101 C	1,095 C	1,196 C
4 Hilo Judiciary Complex, Hawaii			
Planning of a Judiciary Complex in Hilo to accommodate the Circuit, Family and District Courts.			
Plans	100		100
Total Funding	100 C	C	100 C
5 Lahaina District Court, Maui			
Design, construction and furnishing of a new Lahaina District Court.			
Design		1	1
Construction	277	914	1,191
Equipment	85	36	121
Total Funding	362 C	951 C	1,313 C

Item No.	Program	Program ID.	FY M 1983-84 O F	FY M 1984-85 O F	Total M Biennium O F 1983-85
6	Advance Planning Judiciary				
	Advance planning for statewide Judiciary facilities planning projects.				
	Plans		15		15
	Total Funding		15 C	C	15 C
7	Remodeling and Upgrading Judiciary Building, Statewide				
	Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings, statewide.				
	Design		55	60	115
	Construction		157	195	352
	Equipment		6	7	13
	Total Funding		218 C	262 C	480 C
8	Molokai District Court, Molokai				
	Design, construction and furnishing of the Molokai District Court in the Kaunakakai				

Civic Center.			
Design	55	55	55
Construction	723	723	723
Equipment	38	38	38
Total Funding	C	816 C	816 C
9	Wahiawa District Court, Oahu		
	Design of the Wahiawa District Court in the Wahiawa Civic Center.		
	Design	48	48
	Total Funding	C	48 C
10	Judiciary Security Training Facility, Oahu		
	Planning of a Judiciary Security training facility.		
	Plans	20	20
	Total Funding	20 C	20 C
11	Judiciary Complex Garage, Oahu		
	Design of a parking facility in the Reed Lane area of the State Judiciary Complex.		
	Design	436	436
	Total Funding	C	436 C
12	Ali'iolani Hale, Exterior Renovation, Oahu		
	Repair and restoration of the exterior of Ali'iolani Hale.		

Item No.	Program	Program ID.	FY M 1983-84 O F	FY M 1984-85 O F	Total M Biennium O F 1983-85
Construction				1,937	1,937
Total Funding			C	1,937 C	1,937 C"

SECTION 6. Section 14, Act 291, Session Laws of Hawaii 1983, is amended to read:

“SECTION 14. General Obligation Bonds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$15,926,000.”

SECTION 7. Section 15, Act 291, Session Laws of Hawaii 1983, is amended to read:

“SECTION 15. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal year 1983-84 and that all such appropriations made to be expended in fiscal year 1984-85 which are unencumbered as of June 30, 1986, shall lapse as of that date.”

SECTION 8. Part V, Act 291, Session Laws of Hawaii 1983, is amended by adding a new section to read:

“SECTION 20A. Provided that the judiciary shall lapse at the close of fiscal year 1984-85 an amount equal to worker’s compensation benefits paid in lieu of general fund salary costs.”

SECTION 9. In the event manifest clerical, typographical, or other mechanical errors are found in the Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. Notwithstanding the provisions of section 23G-16.5, Hawaii Revised Statutes, in printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.¹ Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 291, Session Laws of Hawaii 1983, not repealed or modified by this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Edited accordingly.

A Bill for an Act Relating Capital Improvements Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as the General Improvements Act of 1984.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects listed in this Act, are appropriated or authorized, as the case may be, for fiscal year 1984-1985, to be expended by the department of accounting and general services, unless otherwise specified, out of moneys in the treasury received from general obligation bond funds.

I. COUNTY OF HAWAII

A. Department of Agriculture

(To be expended by the Department of Agriculture)

1. Post-Harvest handling, hold, and distribution facility on the island of Hawaii for agricultural commodities, Kona, Hawaii. \$ 45,000
Ground and site improvements and construction of facility.
2. Post-Harvest handling, hold and distribution facility for agricultural commodities, Kona, Hawaii \$ 55,000
Funds for ground and site improvements and construction of facility.

B. Department of Planning and Economic Development

(To be expended by the Department of Planning and Economic Development)

1. Sea Grant Project \$ 80,000
Planning and installation of coastal and underwater trails in West Hawaii; planning and design of ocean recreational facilities at the Old Kona Airport.
2. Sea Grant Program, Hawaii \$ 15,000
Planning and installation of coastal and underwater trails in West Hawaii; planning and design of ocean recreational facilities at the Old Kona Airport.

C. Department of Land and Natural Resources

(To be expended by the Department of Land and Natural Resources)

1. Hilo Iron Works, Hawaii \$530,000
Planning, design, construction, renovation, and land purchase or lease to purchase or lease of a facility for production, processing and product development of agricultural, aquacultural and marine products and other related uses in the State of Hawaii.
2. Midway Island \$ 15,000
For a comprehensive engineering plan to establish a diesel fuel storage and delivery facility, and to include all of the shoreline infrastructure necessary to support the projected fishing fleet on Midway Island.
3. Kalopa State Recreation Area, Hawaii \$ 10,000

Plans, design, and reconstruction and/or replacement of existing pavilion roof.

4. Kehena Ditch, Kohala, Hawaii \$ 5,000
Land acquisition, planning, appraisal, title search, and other related expenses for the Kehena Ditch, North Kohala, Hawaii.
5. Commercial Fisheries & Aquaculture \$215,000
Facility Development, Statewide and/or the State of California Planning, design, construction, renovation, and land purchase or lease to purchase or lease of a facility for consolidation, production, processing, distribution, packing, storage, refrigeration and/or produce development of agricultural, aquacultural and marine fishery products and other related uses in the State of Hawaii and/or the State of California.
6. State Natural Recreational and \$ 50,000
Historic Park at South Kona to Ka'u, Hawaii
Funds for study, design and plans in reference to S.R. 65-1983, requesting further action on the designation of a state natural recreational and historic park at Kapua, Honomalino, Okoe, Kaulanamauna, and Manuka Districts in South Kona and Ka'u, Island of Hawaii.
7. Wailoa River Project, Hilo, Hawaii \$ 50,000
Design and construction of jetty and dredging sandbar at the mouth of Wailoa River, Hilo, Hawaii.

D. Department of Transportation

(To be expended by the Department of Transportation)

1. Wailoa River Project, Hilo, Hawaii \$100,000
Design and construction of jetty and dredging sandbar at the mouth of Wailoa River, Hilo, Hawaii.
2. Keaau-Pahoa Road and Mamaloa Road \$110,000
Installation of traffic signal at the intersection of Keaau-Pahoa Road and Mamaloa Road.
3. Queen Kaahumanu Highway, Hawaii \$ 50,000
Design and construction for installation of traffic signal on Queen Kaahumanu Highway at the Nani Kailua intersection.
4. Civil Air Patrol Building, Keahole \$ 10,000
Airport, Hawaii Plans and design for a building for use by the Civil Air Patrol at Keahole Airport, Hawaii.
5. Hawaii Belt Road, Plumeria Road \$200,000
Intersection, Honokaa, Hawaii Design and construction of improvement to Hawaii Belt Road and Plumeria Junction.
6. Kohala Culvert, Kapaa, Hawaii \$ 50,000
Design and construction for drainage improvements at Kapaa, Hawaii.
7. Storm Drainage Improvements, Honokaa- \$ 10,000
Waipio Road, Hawaii Design and construction for drainage improvements along Honokaa-Waipio Road, Hawaii.
8. Saddle Road, Hawaii \$ 10,000
Plans, including preliminary engineering plans and design for realignment and other improvements.
9. Hawaii Belt Road, Plumeria Road \$100,000

	Intersection, Honokaa, Hawaii Funds for improvements at Plumeria Junction.	
10.	Honokaa Kukuihaele Highway, Honokaa, Hawaii Funds for improvements.	\$ 70,000
11.	Kamuela-Kawaihae Road, Hawaii Funds for safety improvements to existing Kawaihae Road from Waiaka junction to Kawaihae.	\$100,000
12.	Keaau-Pahoa Road, Hawaii Funds for installation of traffic signal at the intersection of Keaau-Pahoa Road and Mamaloa Road.	\$ 15,000
13.	Keahole Airport, Hawaii Funds for a building for use by the Civil Air Patrol.	\$ 15,000
14.	Kohala Culvert, Kapaau, Hawaii Funds for drainage improvements.	\$ 30,000
15.	Queen Kaahumanu Highway, Hawaii Funds for installation of traffic signal on Queen Kaahumanu Highway at Nani Kailua Intersection.	\$ 40,000
16.	Saddle Road, Hawaii	
	a. Funds for study to transfer road to state highway system.	\$ 10,000
	b. Plans, including preliminary engineering plans and design for realignment and other improvements.	\$ 15,000
E.	Department of Education	
1.	Hilo High School, Hilo, Hawaii Design, construction, and equipment for Industrial Education Facilities.	\$200,000
2.	Kahakai Elementary School, Hawaii Design and construct cafeteria building.	\$ 75,000
3.	Ka'u High and Pahala Elementary School Design and construction of shop facility.	\$ 15,000
4.	Konawaena Intermediate and High School, Hawaii	
	a. Design and construction for acquisition and installation of bleachers in the athletic field.	\$ 50,000
	b. Design and construction for corrective measures on excessive interior noise problems in the cafeteria (supplemental to 1983 appropriation).	\$ 50,000
	c. Design and construction for renovations and repairs to the swimming pool.	\$ 30,000
5.	Mountain View Elementary School	
	a. Design and construction of classrooms.	\$ 25,000
	b. Design and construction of covered play court.	\$ 40,000
6.	Pahoa High and Elementary School	
	a. Design and construction of classrooms.	\$ 45,000
	b. Installation of athletic field bleachers.	\$ 50,000
7.	Waiakea Elementary School, Waiakea Intermediate School, and Waiakea High School Complex, Hilo, Hawaii. Design and construction of classrooms.	\$100,000
8.	Waiakeawaena Elementary School, Hilo,	\$ 20,000

	Hawaii Design and construction for renovation of old Library and Administrative building.	
9.	Kahakai Elementary School, Hawaii Funds to build cafeteria building.	\$ 40,000
10.	Ka'u High and Pahala Elementary School, Hawaii Funds to build shop facility.	\$ 15,000
11.	Konawaena Intermediate and High School, Hawaii	
a.	Funds for acquisition and installation of bleachers in the athletic field.	\$ 32,500
b.	Funds for renovations and repairs to the swimming pool.	\$ 15,000
c.	Funds to provide corrective measures on excessive interior noise problems in the cafete- ria.	\$ 7,500
d.	Site improvements and major renovations to existing athletic field.	\$100,000
e.	Funds for design of stage in gym.	\$ 25,000
f.	Funds for design of All-Weather Athletic Track Field (Supplement to 1983 Appropriation).	\$ 25,000
12.	Mountain View Elementary School, Hawaii	
a.	Funds to build classrooms.	\$ 15,000
b.	Funds to build a covered play court.	\$ 15,000
13.	Pahoa High and Elementary School, Hawaii	
a.	Funds for installation of athletic field bleachers.	\$ 15,000
b.	Funds for classrooms, covered walkways connecting the cafetorium building with the rest of campus, covered bus loading/unloading area, and covered play area (patio) for elementary students.	\$ 15,000
F.	Department of Defense	
1.	National Guard Rifle Range and Hunter Safety Area at Pohakuloa, Hawaii Funds for construction.	\$200,000
H.	Department of Health (To be expended by the Department of Health)	
1.	Kona Hospital Renovation Design and construction for renovations.	\$ 50,000
2.	Kona Association for Retarded Citizens dba Kona Krafts, Island of Hawaii Renovation and improvements to existing building; installation of fence and improvements to plant nursery.	\$ 25,000
3.	Kona Association for Retarded Citizens dba Kona Krafts, Hawaii Renovation and improvements to existing building; installation of fence and improvements to plant nursery.	\$ 15,000
4.	Kona Hospital, Hawaii Plans and renovation to hospital to eliminate wasted space.	\$ 15,000
5.	St. Francis Hospital Hemodialysis Center, Kailua-Kona, Hawaii Funds for equipment and furniture.	\$100,000
J.	Judiciary	

	1. Judiciary Library for West Hawaii, Kona, Hawaii Fund for acquisition of law books.	\$ 30,000
W.	County of Hawaii (To be expended by the County of Hawaii)	
	1. Richardson Ocean Recreation Center Design and construction of coastal trails and renovation of structures.	\$ 15,000
	2. Laupahoehoe Small Boat Ramp, Laupahoehoe, Hawaii Design and construction of small boat ramp and related navigational improvements, parking, turn-around area, and appurtenances at Laupahoehoe, Hawaii.	\$100,000
	3. Kaieie Homestead Road, Papaikou, Hawaii Design and construction of widening of Kaieie Homestead Road, Papaikou, Hawaii.	\$ 25,000
	4. Honokaa Gymnasium, Hawaii Plans and construction of Honokaa Gymnasium.	\$100,000
	5. Laupahoehoe Small Boat Ramp, Hawaii Plans and construction of small boat ramp, related navigational improvements, parking lot, and appurtenances.	\$150,000
	6. Richardson Ocean Recreation Center, Hawaii Design and construction of coastal trails.	\$ 15,000
	7. Honokaa Gymnasium, Hawaii Funds for plans and construction of gymnasium.	\$400,000
WW.	County of Hawaii (To be expended by the Department of Water Supply)	
	1. Water Resources, Island of Hawaii Development, design, and construction of Water Resources and System on the island of Hawaii.	\$ 80,000
	2. Keaau-Pahoa Trunk Line Land acquisition, plans, design, and construction for incremental development of water systems, including pipelines and necessary appurtenances.	\$200,000
	3. Keaau-Pahoa Trunk Line, Phase III, Hawaii Funds for incremental development.	\$ 15,000
	4. South Hilo Water Development, Hawaii Construction of and equipment for the Piihonua Production Well #2.	\$100,000
II.	COUNTY OF MAUI	
C.	Department of Land and Natural Resources (To be expended by the Department of Land and Natural Resources)	
	1. Maui Shooting Range, Ukumehame, Maui Plans, design, and construction of a multi-use small arms firing range at Ukumehame, Maui.	\$500,000
	2. Molokai Irrigation System Plans and design.	\$100,000
D.	Department of Transportation (To be expended by the Department of Transportation)	
	1. Kekaulike resurfacing Resurfacing and repair of Kekaulike Highway.	\$250,000
	2. Road Shoulder Improvement, Wailuku, Maui	\$125,000

Construction of a road shoulder pavement project on a 1.6 mile stretch of road between Maalaea Small Boat Harbor and the intersection of Honoapiilani Highway and Kuihelani Highway in the District of Wailuku, Maui.

3. East End Boat Ramp, Molokai
Plans, design, and construction. \$ 50,000
4. Honoapiilani Highway Shoulder
Improvements, West Maui Construction. \$225,000
5. Honoapiilani Highway, Lahaina, Maui
 - a. Funds for installation of
traffic signals at Kapunakea and Hinau Streets in Lahaina. \$200,000
 - b. Design for widening, improving
and/or providing a bypass to the existing highway from
Kaanapali Resort to Puamana. This project is deemed necessary to qualify for Federal-aid financing or reimbursement. \$ 50,000

E. Department of Education

1. Kahului School, Maui
Construct chain-link fence between Maui High School and Kahului School. \$ 25,000
2. Kahului School Library, Maui
Design and construction for remodeling of existing library. \$100,000
3. Hana High and Elementary School, Maui
Funds to construct a gymnasium. \$350,000

H. Department of Health

(To be expended by the Department of Health)

1. Kula Hospital, Kula, Maui
Renovation and expansion of former residential wards. \$ 25,000

V. County of Maui

(To be expended by the County of Maui)

1. Wailuku Community Center, Maui
Plans, design, and construction of a community center facility in Wailuku, Maui. \$500,000
2. Pukalani Community Center, Pukalani Maui
Plans, design, and renovation of existing facility. \$100,000
3. Kihei Community Youth Center
Building, Maui Funds to construct improvements to the Kihei Youth Center Building. \$ 20,000
4. Ukumehame Rifle Range, Maui
Funds for plans, design and construction of rifle range. \$100,000
5. Wailuku Community Center, Maui
Funds to construct facility for community use. \$700,000

III. CITY AND COUNTY OF HONOLULU

A. Department of Agriculture

1. Agricultural Facility, Oahu
Planning, design, construction, renovation and land purchases or lease to purchase or lease of a facility for consolidation, processing, distribution, packing, storage and refrigeration of agricultural products and other related uses in the State of Hawaii. \$100,000

B. Department of Planning and Economic Development

(To be expended by the Department of Planning and Economic Development)

1.	Kapahulu and Kalakaua Junction, Oahu	\$100,000
	Planning and construction of information kiosk at park area at the junction of Kapahulu and Kalakaua.	
C.	Department of Land and Natural Resources	
	(To be expended by the Department of Land and Natural Resources)	
1.	Diamond Head State Monument, Oahu	
a.	Comprehensive master planning for improvements to Diamond Head State Monument, Kapiolani Community College Ft. Ruger Campus, State Department of Defense, and other State lands adjoining the State Monument.	\$ 50,000
b.	Plans, design, and construction funds for widening entrance roadway to Diamond Head State Monument and adjacent portions of Diamond Head Road.	\$240,000
2.	Manoa Stream, Oahu	\$ 25,000
	Plans for a flood and erosion control project.	
3.	Fort Armstrong - Kewalo (Kakaako)	\$855,000
	Shorefront Park Design and construction for development of an oceanfront park and related facilities.	
4.	Midway Island	\$ 20,000
	For a comprehensive engineering plan to establish diesel-fuel storage and delivery facilities, and to include the shoreside infrastructure necessary to support the projected fishing fleet on Midway Island.	
5.	Kaiaka State Park, Oahu	\$ 50,000
	Clearing and grubbing brush along chainlink fence next to the Haleiwa Elementary School.	
6.	Waimanalo Canal and Stream Cleanup, Oahu	\$100,000
	Dredging of Inaole and Kahawai Streams.	
7.	Waimanalo State Park, Oahu	\$150,000
	Design and construction for one additional restroom located between the two now on site.	
8.	Aiea Rainbow Bay State Park, Oahu	\$ 65,000
	Funds for a comfort station and showers.	
9.	Agricultural, Aquacultural and Marine Fishery Facility, Oahu	\$ 55,000
	Planning, design, construction, renovation and land purchase or lease to purchase or lease of a facility for consolidation, production, processing, distribution, packing storage, refrigeration and/or product development of agricultural, aquacultural and marine fishery products and other related uses in the State of Hawaii and/or the State of California.	
10.	Diamond Head State Monument, Oahu	
a.	Funds for parking lot, trails and other improvements.	\$120,000
b.	Demolition and removal of abandoned buildings, and installation of replacement landscaping along Diamond Head Road and Monsarrat Avenue.	\$200,000
11.	Fort Ruger Theater, Oahu	\$100,000
	Funds for an addition to the Ruger Theater building.	
12.	Kukaniloko Birth Site, Wahiawa, Oahu	\$150,000
	Funds for design and construction.	

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| 13. | Makiki Ditch, Oahu
Funds to clean up debris in collapsed easement at 1727 Makiki Street, and restoration of minimum safety standards. | \$ 30,000 |
| 14. | Makiki Environmental Education Center, Inc., Oahu Funds for painting of building, installation of drinking fountains, window (louver) replacement, and improvements to nursery area. | \$ 35,000 |
| 15. | Pearl City Community Youth Athletic Complex, Oahu Funds for a Pearl City Community Youth Athletic Park at the former State hospital site between Kam Highway and H-1 Freeway. | \$170,000 |
| 16. | Sand Island Park, Oahu
Funds for general improvements to existing camping grounds, picnic areas, and shoreline facilities, and an additional parking lot. | \$150,000 |

D. Department of Transportation

(To be expended by the Department of Transportation)

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| 1. | Ala Wai Canal, Oahu
Construction of bicycle path, sidewalk repair, and landscaping on Waikiki side of Ala Wai Canal. | \$300,000 |
| 2. | Traffic Signal at the intersection of
Ala Mahamoe Street and Kaua Street Construction of a traffic signal at the intersection of Ala Mahamoe Street and Kaua Street, situated on the southeast border of Moanalua Gardens, Honolulu, Oahu. | \$ 80,000 |
| 3. | Kunia Road, Oahu | |
| a. | Planning, design, and construction of
street lights on Kunia Road, Kunia, Oahu, from Kunia Village to Waipahu, Oahu. | \$ 80,000 |
| b. | Installation of side road reflectors
on both sides of Kunia Road from the entrance of Village Park subdivision to Wheeler Air Force Base, Kunia Gate. | \$ 20,000 |
| 4. | H-1 Freeway Guardrails, Oahu
Guardrails along the H-1 Freeway between the Waipahu Underpass and the Makakilo Underpass. | \$411,500 |
| 5. | Fort Weaver Road, Oahu
To complete design work from Renton Road to Hanakahi Road. | \$ 50,000 |
| 6. | First Artesian Well Monument
Relocate and reconstruct First Artesian Well Monument from present site, Old Fort Weaver Road to corner of Old Fort Weaver Road and new Fort Weaver Road; or construct First Artesian Well Monument at corner of Old Fort Weaver Road and New Fort Weaver Road. | \$ 5,000 |
| 7. | Kamehameha Highway, in the vicinity between Kipapa Gulch and the entrance of Mililani Memorial Park and Mortuary, Oahu | |
| a. | Design and construction for
installation of lights and poles along the highway. | \$ 70,000 |
| b. | Design and construction for
installation and maintenance of two emergency telephones. | \$100,000 |
| 8. | Kamehameha Highway, Oahu
Resurfacing and drainage improvements of highway from Kaaawa to Kahekili intersection. | \$100,000 |

9.	Kahekili Highway, Oahu Widening and resurfacing of highway from Haiku Road to Like-like Highway.	\$ 86,000
10.	Pali Highway Tunnel, Oahu Lighting improvement.	\$ 50,000
11.	Kamehameha Highway Intersection Improvements, Intersection of Likelike Highway and Kamehameha Highway, Oahu Extending left turn storage lanes.	\$125,000
12.	Heeia-Kea Pier Improvements Replacement of hoist and fish scale and addition of dock box locker.	\$ 4,000
13.	University Avenue Extension Design for University Avenue bridge across the Ala Wai canal.	\$ 50,000
14.	Traffic Signal at the Intersection of St. John's Road and Kaukamana Road, Maile, Oahu Plans, design, and construction of a traffic signal at the intersection of St. John's Road and Kaukamana Road.	\$100,000
15.	Farrington Highway, Oahu Funds for realignment mauka of the present highway at Makaha Beach Park.	\$150,000
16.	Farrington Highway and Hookele Road, Oahu Funds for traffic lights.	\$100,000
17.	Farrington Highway leaving Nanakuli, Oahu Funds for guard rails on medial strip.	\$ 56,000
18.	Farrington Highway, Oahu Funds for eleven bus shelters in Waianae/Nanakuli area.	\$ 27,000
19.	H-1 Freeway between Kunia Road and Kahe Point, Oahu Funds for installation of emergency telephones.	\$350,000
20.	Haleiwa Boat Harbor, Oahu Funds to construct a weigh scale.	\$ 50,000
21.	Helemano General Aviation Airport, Oahu Funds for planning and design.	\$100,000
22.	Kalaniana'ole Highway, Oahu Funds for widening Kalaniana'ole Highway between Kirkwood Place and Hawaii Kai.	\$210,000
23.	Keeaumoku Street Bridge/Overpass, Oahu Adjusting chainlink fence, installing illumination, construction of walkway under overpass.	\$ 15,000
24.	Keehi Lagoon, Oahu Funds for an additional launching ramp lane, and loading dock and miscellaneous improvements.	\$150,000
25.	Lualualei Homestead, Oahu Funds for installation of two caution (flashing amber) lights from Mill Street to Leihoku Elementary School; installation of sidewalk on both sides of the street for a distance of 3/4 mile.	\$158,000
26.	Nanakuli Avenue School Zone, Oahu Funds for midblock crosswalk, walkway, and caution (flashing amber) light.	\$ 14,000

E. Department of Education

1.	Aiea Elementary School, Oahu Design and construct a paved playcourt.	\$ 40,000
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2.	Aiea High School, Oahu	
a.	Design and construct the removal of glass louvres and replace with wood for Buildings A, B, C, and J.	\$ 65,000
b.	Construction and installation of central air conditioning unit in Library.	\$ 75,000
3.	Aiea Intermediate School, Oahu Improvement of existing paved playcourt.	\$ 30,000
4.	Aikahi Elementary School, Kailua, Oahu Design and construction for security improvement including security screen.	\$ 30,000
5.	Aina Haina Elementary School, Oahu	
a.	Plans, design, and construction for covered walkways between the Cafeteria Building and the Administration Building.	\$ 60,000
b.	Plans, design, and construction for the renovation of the library, including security screens, air conditioning, electrical wiring, and an alarm system.	\$ 75,000
c.	Plans for the renovation of the Administration Building.	\$ 5,000
6.	Ala Wai School Installation of security screens in the cafeteria and main office buildings.	\$ 10,000
7.	Aliamanu Elementary School, Oahu Conversion of Type II Classroom to Type I Classroom.	\$ 8,000
8.	Alvah Scott Elementary School, Oahu Design and construct paved playcourt.	\$ 40,000
9.	August Ahrens School Improvements, Waipahu, Oahu	
a.	Planning, design, and construction of security screens for I and J Buildings.	\$ 60,000
b.	Planning, design, and construction of water sprinklers.	\$100,000
10.	Barbers Point Elementary School, Oahu Security screens for three (3) classrooms.	\$ 10,000
11.	Blanche Pope Elementary School, Waimanalo, Oahu Design and construction for covered walkways.	\$ 15,000
12.	Campbell High School, Oahu	
a.	Fence between Campbell High School, cafeteria and Pohakea Elementary School.	\$ 7,000
b.	Repair stadium bleachers.	\$ 67,000
c.	Security screens, paint classrooms and F Building at James Campbell High School plus fence between O.L.P.H. (private school) along North Road to end of James Campbell High School library and parking lot.	\$ 40,000
13.	Castle High School, Oahu Revise Master Plan.	\$100,000
14.	Central Intermediate School, Oahu Purchase and installation of louvres, mainstage and black-out curtains for auditorium.	\$ 15,000
15.	Dole Intermediate School	
a.	Security screens for Shop I and II.	\$ 8,000

	b.	Security screens for Rooms 52 and 58.	\$ 4,000
	c.	Construct 105 parking stalls.	\$ 30,000
16.		Ewa Beach Elementary School, Oahu	\$ 7,000
		Fence between Ewa Beach Elementary School and Ewa Beach Shopping Center.	
17.		Ewa Elementary School, Oahu	
	a.	Security screens for twelve (12) rooms.	\$ 18,500
	b.	Demolition and regrooming of the custodial cottage and resurfacing of the basketball courts.	\$ 20,000
18.		Farrington High School, Oahu	
	a.	Design and construction of security for the Main Building of the school.	\$155,000
	b.	Personnel security and security screens.	\$100,000
	c.	Security to all stairway to 2nd floor.	\$ 25,000
	d.	Design and construction of new lighting and a new public address system in the auditorium.	\$216,000
19.		Hahaione Elementary School, Honolulu	
	a.	Construction of security screens for Building F.	\$ 7,500
	b.	Design and construction of a burglar alarm system for Building F.	\$ 5,000
20.		Haleiwa Elementary School, Oahu	\$ 16,000
		Additional parking area.	
21.		Heeia Elementary School, Oahu	
	a.	Design and construction for parking lot improvement.	\$ 50,000
	b.	Design and construction for drainage improvement.	\$ 70,000
22.		Highlands Intermediate School	\$ 50,000
		Design and construction for art classrooms.	
23.		Honolulu District Office	\$ 40,000
		Plans, design, and construction of a parking lot, driveway extension and turnaround at the Department of Education's Honolulu District Office, Oahu.	
24.		Honowai Elementary School, Waipahu, Oahu	\$ 84,000
		Planning, design, and construction of security screens for 21 classrooms.	
25.		Kaahumanu Elementary School, Oahu	
	a.	Ground improvements at Queen Kaahumanu Elementary School, Oahu.	\$ 25,000
	b.	Surfacing of a walkway.	\$ 5,000
26.		Kaala Elementary School	\$ 80,000
		Change old window shutters in four classroom buildings.	
27.		Kahuku High School, Oahu	\$ 40,000
		Purchase computers.	
28.		Kailua High School, Oahu	
	a.	Design and construction for athletic field improvements including portable toilets.	\$170,000
	b.	Design and construction for access road to Kailua High School.	\$350,000

29.	Kailua Intermediate School, Kailua, Oahu	\$ 10,000
	Silent alarm system or security screens for six classrooms and administration building.	
30.	Kaimuki High School, Oahu	
a.	Design and construction to renovate and expand the gymnasium, including replacement of bleachers, and expansion of basketball court and wrestling practice area.	\$125,000
b.	Track and field area improvements; grade and fill track oval with cinders, resurfacing of field event pits and runways.	\$100,000
c.	Design, renovation, and expansion of a weight room to be built within the athletic locker room complex; also for security materials needed to prevent burglary.	\$ 50,000
d.	Sealing of cracks, repainting, a new lighting system, an automatic chlorinating system, security barriers around the pool itself, starting blocks, diving board and lane markers for the swimming pool.	\$ 50,000
31.	Kaimuki Intermediate School, Oahu	\$100,000
	Plans, design, and construction of ventilation and acoustical improvements to two science classrooms.	
32.	Kaiser High School	
a.	Renovation of two classrooms for design and construction of laboratory classrooms.	\$400,000
b.	Installation of security screens.	\$ 14,000
c.	Resurfacing of tennis and basketball courts.	\$ 40,000
33.	Kalaheo High School, Kailua, Oahu	\$110,000
	Plans and construction of athletic facilities and ground improvements.	
34.	Kalakaua Intermediate School	\$ 6,000
	Re-roofing of the P.E. Buildings of the school.	
35.	Kalani High School, Oahu	
a.	Plans, design, and construction for additional locker room facilities, including showers, for the gymnasium.	\$200,000
b.	Construction and equipment for renovation of the bandroom.	\$ 82,500
c.	Plans, design, and construction of a new baseball field for the upper campus.	\$150,000
36.	Kalihi Elementary School	
a.	Security screening - Building BI-4.	\$ 10,000
b.	Silent alarm system.	\$ 10,000
c.	Security screening - cafeteria.	\$ 5,000
37.	Kalihi-Kai Elementary School	\$200,000
	Installation of traffic light.	
38.	Kalihi-Uka School	
a.	Security screens - for cafeteria.	\$ 3,000
b.	Construct 2 storage areas.	\$ 5,000
c.	Construct partition in Building C.	\$ 4,000

39.	Kamiloiki Elementary School	
a.	Construction of concrete slab, extension of walkway.	\$ 7,000
b.	Installation of security screens.	\$ 18,000
40.	Kaneohe Elementary School, Oahu	\$ 50,000
	Design and construction for cafetorium improvement.	
41.	Kapunahala Elementary School, Oahu	\$175,000
	Design and construction for renovation of library.	
42.	Kawananakoa Intermediate School, Oahu	
a.	Installation of air conditioning for the library.	\$ 90,000
b.	Improvements and renovations to the P. E. buildings.	\$ 40,000
43.	Keolu Elementary School, Kailua, Oahu	\$ 80,000
	Design and construction of a covered walkway and drainage im- provement.	
44.	King Intermediate School, Oahu	
a.	Design and construction for fire alarm system.	\$150,000
b.	Design and construction for security improvement.	\$ 60,000
c.	Design and construction for covered walkway improvement.	\$170,000
45.	Kuhio Elementary School	\$ 50,000
	Resurfacing of a parking lot.	
46.	Lanakila Elementary School, Oahu	\$ 70,000
	Design and construction for security fencing around the school.	
47.	Leilehua High School	
a.	Re-roofing of cafetorium (half completed).	\$ 20,000
b.	Re-roofing of classroom buildings:	
	1) 17-20	\$ 21,000
	2) 21-24	\$ 20,000
	3) 48-50	\$ 21,000
c.	Re-roofing of walkway.	\$ 50,000
d.	Repavement of road surrounding Leilehua High School; also, leading to music and gymnasium building.	\$150,000
e.	Painting of R.O.T.C. Building.	\$ 10,000
f.	Painting of Science Building (2 stories).	\$ 20,000
g.	Painting of gymnasium.	\$ 20,000
48.	Liholiho Elementary School	\$ 50,000
	Exterior repainting of all classroom buildings.	
49.	Likeline Elementary School, Oahu	\$122,000
	Design and construction for air conditioning for present library.	
50.	Liliha Library, Oahu	\$250,000
	Redesign and reroof parking structure.	
51.	Lunalilo Elementary School, Oahu	\$ 50,000
	Design and construction for installation of security screens for the library, administration, and cafeteria buildings.	

52.	Maemae School, Oahu	
a.	Improvements and renovations to facilities and grounds.	\$360,000
b.	Improvements to parking and driveway facilities.	\$ 30,000
53.	Makakilo Elementary School, Oahu	\$ 10,000
	Security screens for Administrative Office and Library.	
54.	Manoa Elementary School, Oahu	\$ 75,000
	Repair of fascias and roofs.	
55.	Manoa Library, Oahu	\$ 10,000
	Replacement of air conditioner grills.	
56.	Maukalani Elementary School, Oahu	
a.	Security screens for one (1) room.	\$ 7,500
b.	Retaining wall.	\$ 40,000
57.	Maunawili School, Kailua, Oahu	\$ 50,000
	Design and construction for security improvement including security screens.	
58.	McCully/Moiliili Library	\$ 40,000
	General improvements.	
59.	Mililani-Waena Elementary School, Oahu	\$330,000
	Design and construction for multi-purpose dining room. Unexpended funds from the Department of Education projects in Sections 2 III E 63a, 63b, and 65, Act 283/83, may be used for this project.	
60.	Moanalua Elementary School, Oahu	
a.	Design and construction of fans for the cafetorium.	\$ 10,000
b.	Design and construct a playcourt.	\$ 80,000
61.	Moanalua High School, Oahu	
a.	Construction of Administration Building.	\$ 50,000
b.	Design and renovate a classroom to science classroom.	\$121,000
62.	Mokapu Elementary School, Kailua, Oahu	\$300,000
	Design and construction for library renovation.	
63.	Nanakuli High and Intermediate School, Oahu	\$200,000
	Plans, design, and construction for general school improvements.	
64.	Admiral Chester W. Nimitz Elementary School, Oahu	\$ 70,000
	Design and construction of paved playcourt.	
65.	Niu Valley Intermediate School	
a.	Renovation of library (includes completion and installation of air conditioning).	\$150,000
b.	Renovation of cafetorium (including acoustical ceiling).	\$ 90,000
c.	Installation of security screens.	\$ 16,000
66.	Noelani Elementary School, Oahu	\$ 25,000
	Painting of the Kitchen/Cafetorium interior.	
67.	Nuuanu Elementary School, Oahu	
a.	Improvements and renovations to the gym.	\$ 50,000

	b. Installation of security screens.	\$ 21,000
68.	Palisades Elementary School Improve area from which portable classrooms were removed to be graded, reseeded, walkway paved, and fence constructed to restrict access to motor vehicles.	\$ 30,000
69.	Pearl City High School Athletic Stadium Complex Design and construction of 5,000 seat concrete bleachers including fence around athletic field, ticket booth, broadcast booth, movie platform, toilet, janitor closet, lights, sprinkler system, and conversion of track to metric.	\$720,000
70.	Pearlridge Elementary School Design and construction for a new library.	\$ 50,000
71.	Puuahale Elementary School Replacement of carpeting of Bldg. "A" and 4 metal doors of the school.	\$ 41,000
72.	Radford High School, Oahu	
	a. Purchase and installation of ceiling fans in the cafeteria kitchen and dining rooms for students and teachers, and two home economics rooms.	\$ 12,000
	b. Rewiring and replacement of football field lights.	\$400,000
73.	Red Hill Elementary School, Oahu	
	a. Construction of a surfaced playcourt.	\$ 70,000
	b. Construction and installation of metal security screens over certain windows which are susceptible to forced entry of buildings. These windows shall include, but not be limited to, those of the 1) three classrooms on the ground floor of Building C, 2) Kiln Room/Teachers' Workroom of Building C, and 3) second floor windows of the Library/Administration Building.	\$ 10,000
74.	Roosevelt High School, Oahu Renovations to Ewa Wing of Building "A".	\$599,000
75.	Salt Lake Elementary School, Oahu Replace and repair basketball court equipment.	\$ 1,000
76.	Robert Louis Stevenson Intermediate School, Oahu Completion of renovations to the library.	\$ 75,000
77.	Sunset Elementary School, Oahu	
	a. Design and construction of one portable classroom.	\$ 45,000
	b. Construction of storeroom.	\$ 15,000
78.	Wahiawa Elementary School	
	a. Design and construction of chain link fence.	\$ 18,000
	b. Exterior painting.	\$ 30,000
79.	Waiahole Elementary School, Oahu	
	a. Design and construction for covered playcourt.	\$ 70,000
	b. Design and construction for security improvements including security screen.	\$ 40,000
80.	Waiialua High School, Oahu	
	a. Design for the extension of	\$ 50,000

	students and teachers dining room.	
	b. Design and construction of science classrooms (Phase II).	\$275,000
	c. Purchase Apple T-2 computers.	\$ 9,000
81.	Waianae Elementary School, Oahu	\$ 58,000
	Renovations of existing classrooms including necessary planning and design.	
82.	Waianae High School, Oahu	
	a. Baseball field.	\$ 62,000
	b. Plans, design, and construction to expand the cafeteria into a theater.	\$250,000
83.	Waiau Elementary School Cafetorium, Oahu	\$500,000
	Construction of cafetorium.	
84.	Waimalu Elementary School	
	a. Design and construction for expansion of existing library.	\$ 50,000
	b. Design and construction for an Administration Building.	\$ 50,000
85.	Waimanalo Elementary School, Waimanalo, Oahu	
	a. Replace burned classrooms for typing and language classes.	\$112,000
	b. Design and construct walkways for Buildings U and V.	\$ 8,000
86.	Waipahu Elementary School, Oahu	\$ 93,500
	Improvements to playcourt and level grade and install sprinkler system.	
87.	Waipahu High School Improvements, Waipahu, Oahu	
	a. Planning, design, and construction of permanent public bathrooms for athletic football field.	\$133,000
	b. Planning, design, and construction of weight room.	\$100,000
	c. Planning, design, and construction of chain link fence, gate and roadway to athletic football field.	\$150,000
88.	Waipahu Intermediate School, Oahu	
	a. Design for locker/shower rooms (BB), 4 P. E. classrooms (CC).	\$160,000
	b. Fencing around special education building housing mentally retarded trainable and severely mentally retarded students.	\$ 8,000
	c. Security screen for special motivation class.	\$ 5,000
89.	Washington Intermediate School, Oahu	\$225,000
	Design and construction for the renovation of the library at President George Washington Intermediate School, Oahu.	
90.	Wilson Elementary School, Oahu	
	a. Plans, design, and construction of an additional driveway for the parking lot.	\$ 50,000
	b. Plans, design, and construction of ramp from the Library/C-Building to F-Building.	\$ 30,000
	c. Plans, design, and construction to	\$ 20,000

	renovate the drainage system between C-Building and the Administration Building.	
91.	Aiea Elementary School, Oahu Funds to build paved play court.	\$ 40,000
92.	Aiea High School, Oahu	
a.	Removal of glass louvres and replacement with wood in buildings A, B, C, and J.	\$ 65,000
b.	Installation of central air conditioning in library.	\$ 75,000
c.	Beautification Project	\$ 50,000
93.	Alvah Scott Elementary School, Oahu Funds to build paved play court.	\$ 40,000
94.	Barbers Point Elementary School, Oahu Funds for security screens for 3 classrooms.	\$ 5,000
95.	Benjamin Parker Elementary School, Oahu	
a.	Funds to design and construct retaining wall behind Building "C".	\$ 35,000
b.	Funds to design and construct a new retaining wall at corner of Kamehameha Highway.	\$ 20,000
96.	Campbell High School, Oahu	
a.	Funds to repair stadium bleachers.	\$ 33,000
b.	Funds for security screens and painting.	\$ 20,000
97.	Castle High School, Oahu	
a.	Design and construction of Press Box at Athletic Field.	\$ 70,000
b.	Funds for installation of lights for baseball field.	\$165,000
98.	Ewa Elementary School, Oahu	
a.	Funds for demolition and clearing of a partially burned custodian building.	\$ 2,700
b.	Funds for security screens for up to 20 classrooms.	\$ 1,000
c.	Funds for basketball court resurfacing.	\$ 4,000
99.	Farrington High School, Oahu Funds for two scoreboard clocks for the present gym, field lights for the football field and installation of burglar alarms.	\$100,000
100.	Haleiwa Elementary School, Oahu Funds for renovation.	\$350,000
101.	Heeia Elementary School, Oahu	
a.	Funds for drainage improvement.	\$ 50,000
b.	Funds for improvement to parking lot.	\$ 50,000
102.	Helemano Elementary School, Oahu Design and construction of classrooms.	\$ 50,000
103.	Hickam Elementary School, Oahu Plan and design - library expansion.	\$ 25,000
104.	Kaewai Elementary School, Oahu	\$ 30,000

	Plan and construction of retaining wall parallel to Kalihi Recreation Center Playground.	
105.	Kailua Intermediate School, Oahu Funds to install silent alarm system for six classrooms and administration building.	\$ 10,000
106.	Kaimuki High School, Oahu Funds for renovation of gymnasium.	\$100,000
107.	Kaimuki Regional Library, Oahu Funds for parking lot improvement.	\$ 5,000
108.	Kaiser High School, Oahu	
a.	Funds for extending walls and installing a locked door for the laboratory preparation room (A-204).	\$ 2,500
b.	Funds for installing security screens to Building F.	\$ 4,000
c.	Funds for resurfacing of tennis and basketball courts.	\$ 40,000
d.	Funds for boys' locker room.	\$225,000
e.	Funds for installation of fume hoods for chemistry room (A-304).	\$ 4,500
f.	Funds for building dividing walls and providing adequate ventilation classrooms H-301, H-302, H-303, and H-304.	\$ 4,000
g.	Funds for a girls' locker room.	\$170,000
109.	Kalakaua Intermediate School, Oahu Funds for fence.	\$ 12,500
110.	Kalani High School, Oahu Funds to construct auditorium and other improvements.	\$500,000
111.	Kalihi Elementary School, Oahu Install panic hardware on library back door for safe emergency exit.	\$ 6,000
112.	Kalihi-Palama Public Library, Oahu Carpeting of auditorium.	\$ 1,000
113.	Kalihi-Uka Elementary School, Oahu Plan and construction for expansion of library.	\$ 76,000
114.	Kalihi-Waena Elementary School, Oahu Installation of security screens on first floors of building and administration conference room.	\$ 75,000
115.	Kanoelani Elementary, Oahu Planning and design of cafeteria.	\$80,000
116.	Kaneohe Elementary School, Oahu Funds for retaining wall mauka of "B" building and including chain link fence.	\$80,000
117.	Kapunahala Elementary School, Oahu Funds for covered area between library and office.	\$80,000
118.	King Intermediate School, Oahu	
a.	Funds for covered walkway improvement.	\$160,000
b.	Funds for security improvement.	\$20,000
c.	Funds for fire alarm system improvement.	\$60,000
119.	Kipapa Elementary School, Oahu Design and construction of a multi-purpose room.	\$45,000

120.	Lanakila Elementary School, Oahu	\$30,000
	Funds to paint school buildings.	
121.	Makakilo Elementary School, Oahu	\$ 3,300
	Funds for security screens for administration building.	
122.	Makalapa Elementary School, Oahu	\$ 25,000
	Plan and construction - covered walkway.	
123.	Manana Elementary School, Oahu	\$ 10,000
	Repair and maintenance of facilities and buildings.	
124.	Mauka Lani Elementary School, Oahu	
a.	Funds for retaining wall.	\$ 20,000
b.	Funds for security screen.	\$ 1,000
125.	Mililani-uka Elementary School, Oahu	\$ 45,000
	Design and construction of administration building.	
126.	Mililani-waena Elementary School, Oahu	\$450,000
	Funds to build cafetorium.	
127.	Moanalua Elementary School, Oahu	\$ 25,000
	Orthopedic Ramp to 2nd floor classrooms.	
128.	Moanalua/Salt Lake Library, Oahu	\$500,000
	Funds for land acquisition, planning and construction.	
129.	Nanaikapono Elementary School, Oahu	\$ 10,000
	Funds for chain link fencing on makai boundary of school. (800 feet long by 6 feet high).	
130.	Niu Valley Intermediate School, Oahu	\$ 40,000
	Replace, repair jalousie operations of 22 classroom.	
131.	Nuuanu Elementary School, Oahu	\$ 50,000
	Design and construct wind/rain breaker for covered gym.	
132.	Pauoa Elementary School, Oahu	\$150,000
	Funds for reroofing buildings C, D & cafetorium.	
133.	Pearl City High School Athletic Complex, Oahu	\$275,000
	Funds for a varsity shower and 5,000 seat concrete bleachers, including a ticket booth, video platform, toilets, lights and sprinkler system.	
134.	Pohakea Elementary School, Oahu	
a.	Funds for fence between Campbell High School campus and Pohakea Elementary School campus.	\$ 2,500
b.	Funds for grill gate for Building B.	\$ 800
c.	Funds for security screens for 3 classrooms.	\$ 6,000
135.	Puuhale Elementary School, Oahu	\$ 12,500
	Funds for installation of ceiling fans in cafetorium.	
136.	Roosevelt High School, Oahu	
a.	Funds for Building A (Ewa Wing).	\$399,000
b.	Planning and design of new music building.	\$ 96,000
137.	Stevenson Intermediate School, Oahu	
a.	Funds to renovate physical education lockers.	\$ 25,000
b.	Funds to renovate library.	\$ 75,000
138.	Waiahole Elementary School, Oahu	
a.	Funds for covered playcourt.	\$ 70,000
b.	Funds for security improvements including security screen.	\$ 30,000
139.	Waianae High School, Oahu	\$100,000

Security Improvements and building maintenance.

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| 140. | Waiiau Elementary School, Oahu | \$ 5,000 |
| | Funds for construction of cafetorium. All unexpended funds for this project will be allocated to Pearl City High School Athletic complex. | |
| 141. | Waimanalo Elementary School, Oahu | \$190,000 |
| | Replace burned classrooms for typing and language classes. | |
| 142. | Waipahu Intermediate School, Oahu | |
| a. | Funds for painting of building. | \$ 60,000 |
| b. | Funds for library and administration buildings. | \$180,000 |
| c. | Funds to complete kitchen for special motivation class. | \$ 8,200 |
| d. | Funds for a fence to enclose the faculty parking area adjoining physical education locker room 1. | \$ 2,500 |
| 143. | Waipahu High School, Oahu | |
| a. | Funds for athletic field bathrooms and storage facilities. | \$ 1,000 |
| b. | Funds for a weight room. | \$ 1,000 |
| c. | Funds for improvement of access to athletic fields. | \$ 1,000 |
| d. | Funds for 10 classroom project construction. | \$122,000 |
| 144. | Washington Intermediate School, Oahu Funds to build a swimming pool. | \$100,000 |

F. University of Hawaii

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| 1. | Waimanalo Research Station, Oahu | \$ 15,000 |
| | Replacement of underground irrigation pipes. | |
| 2. | Windward Community College, Oahu | \$100,000 |
| | Funds to complete Campus Master Plan, including environmental impact statement, for the development of needed new facilities. | |
| 3. | Hawaii Institute of Marine Biology, Oahu | \$ 65,000 |
| | Design and planning for building replacement. | |
| 4. | Kapiolani Community College, Oahu | |
| a. | Access for handicapped, accommodations for parking and general landscaping at the Diamond Head Campus | \$100,000 |
| b. | Non-energized x-ray units | \$ 60,000 |
| 5. | School of Architecture | \$100,000 |
| | Plans and Construction of facilities for the School of Architecture, Manoa Campus. | |
| 6. | Windward Community College, Kaneohe | |
| a. | Asphalt Paving for Dirt Road to Automotive Technology Shop | \$ 25,000 |
| b. | Construction Cost for Replacement of Accoustical Ceilings | \$ 50,000 |

H. Department of Health

(To be expended by Department of Health)

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| 1. | Leahi Hospital, Oahu | |
| a. | Replace high voltage electrical cables and related electrical renovations and installations, Leahi Hospital. | \$ 50,000 |
| b. | Repair and renovate exterior canopy on | \$ 85,000 |

	Atherton Building, Leahi Hospital.	
c.	Repair and renovate roofs and roof walkways, Leahi Hospital.	\$ 55,000
K.	Department of Social Services and Housing	
	(To be expended by the Department of Social Services and Housing)	
1.	Kalanihiua Elderly Housing Project, Oahu	
a.	Purchase and installation of emergency devices in bathrooms.	\$ 25,000
b.	Purchase and installation of individual smoke detectors.	\$ 20,000
2.	Kalihi-Palama Health Clinic, Oahu	\$ 20,000
	Funds for the dental clinic expansion.	
3.	Kuhio Park Terrace, Oahu	\$ 56,000
	Funds for a hobby shop and post/piping fence for parking lot.	
4.	Oahu Medium Security Correctional Facility,	\$350,000
	Oahu Acquisition of land and the planning, design, construction and equipment for a medium security correctional facility.	
5.	Punchbowl Homes Nutrition Site, Oahu	\$ 20,000
	Funds to install a canopy over the walkway.	
M.	Department of Accounting and General Services	
1.	Bishop Museum, Oahu	\$400,000
	Facility improvements.	
2.	Hawaii Performing Arts Company	\$325,000
	Plans, design, and construction of a theater to house the Hawaii Performing Arts Company (HPAC), Manoa, Honolulu, Oahu.	
3.	Moiiliili Community Center Building Complex, Oahu	
a.	Design and construction for installation of exterior security lights.	\$ 10,000
b.	Design and construction of parking facility improvements, including waterproofing the parking deck and improving drainage.	\$ 25,000
4.	Lanakila Multi-Purpose Senior Center,	\$136,000
	Oahu Design and construction for re-roofing and painting of the center.	
5.	Ala Wai Canal, Oahu	\$ 50,000
	Funds for landscape & construction improvements for area between Kalakaua Avenue & Ala Moana Boulevard.	
6.	Hawaii Youth Correctional Facility, Oahu	
a.	Funds for new refrigeration system.	\$200,000
b.	Planning, design and construction of a bathroom facility for the recreation area.	\$ 35,000
c.	Planning, design and construction of new ceilings in classrooms.	\$ 25,000
7.	Honolulu Stadium Park, Oahu	\$ 50,000
	Funds for general improvements.	
8.	Kalihi-Palama Culture and Arts Society,	\$ 4,000
	Oahu Funds for reroofing the present building.	
9.	Lyon Arboretum, Oahu	
a.	Funds for widening of road.	\$ 75,000
b.	Renovation of cottage.	\$ 50,000
c.	Construction of greenhouse.	\$ 30,000

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| 10. | McCully Recreation Center, Oahu | \$100,000 |
| | Funds for general improvements. | |
| 11. | Oahu Community Correctional Center, female unit (Hale No Na Wahine), Oahu | |
| | a. Funds for portable classroom. | \$ 75,000 |
| | b. Funds for recreation area fencing. | \$ 75,000 |
| | c. Planning and design for a new permanent facility at the present location. | \$100,000 |
| 12. | Storefront Alternative Learning Center - Wahiawa, Oahu Funds for design and planning. | \$ 50,000 |

U. City and County of Honolulu

(To be expended by the City and County of Honolulu)

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| 1. | Koko Head District Park | \$150,000 |
| | Plans, design, and construction of an East Oahu Community Auditorium at the Koko Head District Park, Honolulu, Oahu. (Funds to be matched by the City and County of Honolulu.) | |
| 2. | Kapiolani Park, Oahu | \$100,000 |
| | Grading, landscaping, and irrigation improvements to central and beach areas. | |
| 3. | Palolo Stream, Honolulu, Hawaii | \$250,000 |
| | Design and construction of retaining walls. | |
| 4. | Palolo Field, Honolulu, Hawaii | \$100,000 |
| | Ground stabilization. | |
| 5. | Kanewai Field, Honolulu, Hawaii | \$ 50,000 |
| | Renovation and general improvements of clubhouse facilities. | |
| 6. | Palolo Avenue, Honolulu, Hawaii | \$ 50,000 |
| | Construction of a sewer relief line near Kaau Street. | |
| 7. | Ala Wai Clubhouse, Oahu | \$ 50,000 |
| | Additional parking on Ewa side of Ala Wai Clubhouse. | |
| 8. | Ala Wai Canal, Oahu | \$ 15,000 |
| | Preliminary plans for pedestrian, bicycle and one-way traffic bridge from Waikiki across Ala Wai Canal to University Avenue. | |
| 9. | Manoa Valley Recreation Center, Oahu | |
| | a. Design and installation of lights for the parking lot. | \$ 25,000 |
| | b. Installation of a safety surface under the existing playground equipment. | \$ 25,000 |
| | c. Design and installation of a public address system. | \$ 5,000 |
| | d. Design and construction of a patio area. | \$ 10,000 |
| 10. | Beretania Park, Honolulu | \$ 55,000 |
| | Plans, design, and reconstruction of roof of the recreation center. | |
| 11. | Kalihi Valley Improvement District | \$346,000 |
| | To improve streets, sewers, drainage systems, and lights. | |
| 12. | Moanalua Recreation Center, Oahu | \$ 50,000 |
| | Construction of a parking area, ballcourts, and fencing. The fencing shall deter unauthorized motor vehicles from driving onto the area not designated for parking, which immediately surrounds the Moanalua Recreation Center and tennis courts. | |
| 13. | New swimming pool at Moanalua Playground | \$ 20,000 |

	Design and construction of a swimming pool at the site of Moanalua Playground adjacent to Moanalua Intermediate School. The design shall be such that the pool may be used for recreation, education, and therapy.	
14.	Traffic and public works improvements in the Twenty-eighth Representative District Design and construction.	\$ 44,000
15.	Aliamanu Park, Oahu Planning, design, and construction of a playcourt, racketball court, tennis court, and basketball court. Funds to be matched by the City and County of Honolulu.	\$ 18,000
16.	Moanalua Road, Oahu Improve Moanalua Road between Pali Momi Street and Aiea Interchange.	\$250,000
17.	Pearl City Recreation Center Racquetball Courts Installation of regulation size racquetball courts at Pearl City Recreation Center.	\$ 50,000
18.	Waipahu Cultural Garden Park, Waipahu, Oahu	
a.	Planning, design, and construction of paved roadway to Education Building.	\$100,000
b.	Planning, design, and construction of paved parking lot for Education Building.	\$183,000
c.	Planning, design, and construction of security screens for Education Building.	\$ 10,000
19.	Kahaluu Flood Control Project, Oahu Purchase of easements for flood control project of Kahaluu Stream.	\$100,000
20.	Pokai Bay Beach Park, Oahu Landscaping and related improvements. The sum appropriated shall be matched by the City and County of Honolulu.	\$ 20,000
21.	Keaau Beach Park, Oahu Landscaping and general improvements. The sum appropriated shall be matched by the City and County of Honolulu.	\$ 30,000
22.	Kapahulu Senior Citizens Center Plans, design, and construction of a multi-purpose room.	\$100,000
23.	Aiea Bicycle/Jogging Path, Oahu Plans, design and construction of lights along the path.	\$100,000
24.	Aiea Recreation Center Field, Oahu; Aiea Annex Field, Oahu; Halawa Field, Oahu; Pearlridge Park, Oahu; and Waimalu Playground, Oahu Field improvements.	\$200,000
25.	Alewa Multi-Purpose Community Center, Nuuanu, Oahu Land acquisition, design and construction of community center.	\$100,000
26.	Beretania Recreation Center, Oahu	
a.	Funds to remodel roof.	\$ 50,000
b.	Funds for extension of meeting room.	\$ 50,000
27.	Bus shelter for vicinity of Pearlridge Shopping Center, Oahu Funds for plans, design and construction.	\$130,000
28.	Kalihi Valley, Oahu Funds to make improvements for streets, sewers, drainage and lights.	\$350,000

29.	Kamehameha Highway, Oahu Installation of street lights on Kamehameha Highway from Hau- ula to Laie.	\$195,000
30.	Kaneohe Community and Senior Citizen Center, Oahu Funds for the installation of magnesium yard lights.	\$ 10,000
31.	Kapalama Canal Beautification, Oahu	\$350,000
32.	Lanakila Multi-Purpose Senior Center, Oahu	
a.	Design and construction of bathrooms for the present facility.	\$ 20,000
b.	Funds to repair roof	\$ 45,000
33.	Lanakila Park, Oahu Funds for field lights for the softball field.	\$ 12,000
34.	McCully District, Oahu Funds for road improvements in McCully.	\$ 50,000
35.	Puiwa-Laimi Multi-Purpose Neighborhood Center, Nuuanu Valley, Oahu Land acquisition, design and con- struction of neighborhood center.	\$ 75,000
36.	Trap Shooting Range, Koko Head, Oahu Funds for a master plan of a trap shooting range.	\$ 10,000
37.	Trap Shooting Range, Oahu Funds for a trap shooting range on Oahu state land.	\$ 10,000
38.	Waianae Valley, Oahu Funds for Hawaiian Homes comfort station.	\$ 85,000
39.	Waiau District Park, Oahu Plan, design, and construction of Olympic size swimming pool.	\$ 50,000
UW.	City and County of Honolulu (To be expended by the Board of Water Supply)	
1.	Water Tank Pumping System, Lai Road, Oahu Design and construction for water tank pumping system.	\$ 50,000
IV.	COUNTY OF KAUAI	
C.	Department of Land and Natural Resources (To be expended by the Department of Land and Natural Resources)	
1.	Haena State Park and Kalalau Trail, Kauai Restoration and improvements of Kalalau Trail and Haena State Park.	\$ 30,000
2.	Restoration of Russian Fort Elizabeth, Waimea, Kauai Construction for the restoration of interpretive fa- cilities of Russian Fort Elizabeth, Waimea, Kauai.	\$ 20,000
3.	Waimea Pier, Kauai Design and construction for development onshore for parking, restroom facilities and picnic area.	\$250,000
4.	Kekaha, Kauai Repair town drainage system.	\$ 50,000
5.	Wailua, Kauai Funds for improvements to Kula rice lots supply/irrigation ditch.	\$ 40,000
D.	Department of Transportation (To be expended by the Department of Transportation)	
1.	Waikaea Canal, Kapaa, Kauai Design and construction for canal range lights and channel mark- ers.	\$ 80,000

	2.	Kuhio Highway Improvement, Kauai Improvement of highway safety on Kuhio Highway across Wilcox Hospital, Lihue, Kauai.	\$ 66,600
	3.	Nawiliwili Harbor Pier, Kauai Design and construction for improvement of Nawiliwili Harbor Pier facilities.	\$240,000
	4.	Kikiaola Small Boat Harbor, Kauai Acquisition and installation of range lights at Kikiaola Small Boat Harbor, Kauai.	\$ 30,000
	5.	Kaumualii Highway, Kauai Funds for traffic signals at Papalina Road.	\$100,000
	6.	Waikaea Canal, Kapaa, Kauai Design and construction for canal range lights and channel markers.	\$ 40,000
E.		Department of Education	
	1.	Hanalei Elementary School, Kauai Plan and design classroom building.	\$ 75,000
	2.	Kauai High and Intermediate School, Kauai Design for the renovation of Building I to a special education center.	\$ 51,400
	3.	Kekaha Elementary School, Kauai Design and construction of 6-classroom building. Supplements prior appropriation.	\$ 60,000
	4.	Waimea High School, Kauai Design for 4-classroom building with teacher work center and toilets.	\$ 45,000
	5.	Waimea Canyon School, Kauai Design and construction of Agricultural Arts facilities.	\$ 20,000
	6.	Wilcox School, Kauai Construction of a 4-classroom building.	\$ 50,000
	7.	Hanalei School, Kauai Design and construct first increment of eight classroom to replace existing classrooms.	\$ 15,000
F.		University of Hawaii	
	1.	Kauai Community College, Kauai Design of locker/shower facilities.	\$ 72,000
I.		Department of Hawaiian Home Lands (To be expended by the Department of Hawaiian Home Lands)	
	1.	Anahola Clubhouse-surrounding land area General improvements, playground and park equipment.	\$ 25,000
M.		Department of Accounting and General Services	
	1.	Kauai Veterans Memorial Hospital, Kauai a. Design and renovation to accommodate 30 long term beds and the addition of an occupational and physician therapy building.	\$ 80,000

	b. Construction of acute care wing.	\$245,000
2.	Samuel Mahelona Memorial Hospital, Kauai Replace incinerator.	\$ 30,000
X.	County of Kauai (To be expended by the County of Kauai)	
1.	Wailua Golf Course improvements Design and construction for renovations and modernization of Wailua Golf Course, including parking.	\$ 75,000
2.	Sports Center, Hanapepe, Kauai Aid to county for Sports Center, Hanapepe, Kauai; provided that no funds shall be made available under this request unless the County of Kauai provides matching funds of \$50,000 for the pur- pose for which this sum is requested.	\$ 50,000
3.	Kapaa/Wailua Development Plan Upgrading of the Kapaa/Wailua development plan.	\$ 15,000
4.	Kapaa, Kauai Construction of sewer system.	\$100,000
V.	STATEWIDE	
C.	Department of Land and Natural Resources (To be expended by the Department of Land and Natural Resources)	
1.	State beach parks Funds for acquisition of land for state beach park at Makena.	\$2,500,000

SECTION 3. Act 283, Session Laws of Hawaii, 1983, Section 2, Part III, Item A-1, is amended to read as follows:

“1.	Agricultural [Production] Park, Oahu	\$ 60,000
	Funds for a study to assess the real property identified as TMK 4-2-06:01, 4-2-08:01, and 4-2-09:01, and any necessary surrounding real property as to its suitability [for] <u>as an</u> agricultural [produc- tion] <u>park</u> .”	

SECTION 4. Act 283, Session Laws of Hawaii, 1983, Section 2, Part III, Item E-105, is amended to read as follows:

“105.	Wilson [Elementary School]	\$ 50,000
	<u>Playground</u> , Oahu Funds for swimming pool design.”	

SECTION 5. The authorizations in section 2 of this Act include land purchase, plans, design, site preparation, improvements to land, construction, and necessary equipment.

SECTION 6. For any project jointly funded by state and county moneys, state funds shall be used only when the county provides at least its share.

SECTION 7. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor, or agency with the governor's approval, shall have the power to enter into each undertaking.

SECTION 8. If the State should assume direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 9. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1984-1985 which are unencumbered as of June 30, 1987 shall lapse as of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

SECTION 10. If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

SECTION 11. The designated expending agency for capital improvements authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first regular session of the legislature convened after such delegations have been made.

SECTION 12. Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 13. The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any projects authorized in this Act.

SECTION 14. Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (land or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total authorization for that project.

SECTION 15. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

SECTION 16. In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 17. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 18. In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified

amount will be required to complete such work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act.

SECTION 19. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such authorization to the extent possible.

SECTION 20. If manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 21. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

ACT 288

H.B. NO. 1874-84

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the

State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year.”

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1983-1984 and estimated for each fiscal year from 1984-1985 to 1986-1987, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1980-81	1,169,454,257	
1981-82	1,154,765,486	
1982-83	1,218,675,016	
1983-84	1,283,868,000	218,478,510
1984-85	1,405,660,000	225,534,024
1985-86	1,520,868,000	241,005,853
1986-87	(not applicable)	259,641,087

For fiscal years 1983-84, 1984-85, 1985-86, 1986-87, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1980-81, 1981-82, and 1982-83 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1983, dated November 4, 1983. The net general fund revenues for fiscal years 1983-84 to 1985-86 are estimates, based on general fund revenue estimates made as of March 15, 1984, by the council on revenues, the body assigned by Article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent

Certificate of the Debt Limit of the State of Hawaii dated April 5, 1984, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1984-85 to fiscal year 1990-91:

Fiscal Year	Principal and Interest
1984-85	191,126,162
1985-86	195,374,199
1986-87	195,703,682
1987-88	187,584,834
1988-89	178,082,360
1989-90	167,731,787
1990-91	159,388,153

The Certificate of Debt Limit as of April 5, 1984, further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1990-91 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund reports as of February 1, 1984, adjusted for appropriations to be funded by general obligation bonds and reimbursable general obligation bonds as provided in Act 291, Session Laws of Hawaii 1983 (Judiciary Appropriations Act of 1983), and Act 301, Session Laws of Hawaii 1983 (General Appropriations Act of 1983), to be expended in fiscal year 1984-85 and for the \$75,000,000 general obligation bonds dated April 1, 1984, Series AY, the total amount of authorized but unissued general obligation bonds is \$351,418,742. The total amount of general obligation bonds authorized by this Act is \$93,669,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$445,087,742.
- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1984-85, 1985-86, and 1986-87, the State proposes to issue \$75,000,000 semi-annually in each of fiscal years 1984-85, 1985-86, and 1986-87. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest pay-

- ments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue in the fiscal years 1984-85 and 1985-86 is \$300,000,000. An additional \$150,000,000 is proposed to be issued in fiscal year 1986-87. The total amount of \$300,000,000 which is proposed to be issued through fiscal year 1985-86 is sufficient to meet the requirements of the authorized and unissued bonds and the bonds authorized by this Act, the total amount of which is \$445,087,742, as reported in paragraph (4), except for \$145,087,742. It is assumed that the appropriations to which an additional \$145,087,742 in bond issuance needs to be applied will have been encumbered as of June 30, 1986. The \$150,000,000 which is proposed to be issued in fiscal year 1987-88 will be sufficient to meet the requirements of the June 30, 1986, encumbrances in the amount of \$145,087,742. The amount of assumed encumbrances as of June 30, 1986 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1986, and the amount of June 30, 1986, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1986-87, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and

- (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in the Certificate of Debt Limit of the State of Hawaii as of April 5, 1984, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 14.12 per cent for the ten years from fiscal year 1984-85 to fiscal year 1993-94. For the purpose of this declaration, the assumption is made that 10 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 14 per cent through June 30, 1985, and 9.5 per cent thereafter, the maximum allowable by law, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issue and Amount of Issue to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount & Year of Principal & Interest
1st half FY 1984-85 \$67,500,000	\$225,534,024	\$205,153,682 (FY 1986-87)
2nd half FY 1984-85 \$67,500,000	225,534,024	214,603,682 (FY 1986-87)
1st half FY 1985-86 \$67,500,000	241,005,853	221,016,182 (FY 1986-87)
2nd half FY-1985-86 \$67,500,000	241,005,853	227,428,682 (FY 1986-87)
1st half FY 1986-87 \$67,500,000	259,641,087	232,965,624 (FY 1987-88)
2nd half FY 1986-87 \$67,500,000	259,641,087	239,378,124 (FY 1987-88)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in H.B. No. 1640-84, H.B. No. 2092-84, and S.B. No. 1846-84 passed by this regular session of 1984, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$93,669,000.

Any law to the contrary notwithstanding general obligation bonds may be issued from time to time in accordance with section 39-13, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 3 the corresponding act numbers for bills identified therein.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Acts 285, 286, and 287, respectively, this volume.

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 269-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate the commission shall require all parties to a proceeding to comply strictly with procedural time schedules which it establishes. If a decision is rendered after the nine-month period, the commission shall in writing report the reasons therefor to the Legislature within thirty days after rendering the decision.

Notwithstanding subsection (c), if the commission has not issued its final decision on a public utility's rate application within the nine-month period stated in this section, the commission shall within one month after the expiration of the nine-month period render an interim decision allowing the increase in rates, fares and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled. The commission may postpone its interim rate decision thirty days if the commission considers the evidentiary hearings incomplete. In the event interim rates are made effective, the commission shall by order require the public utility to return in the form of an adjustment to rates, fares, or charges to be billed in the future any amounts, with interest at a rate equal to the rate of return on such public utility's rate base found to be reasonable by the commission, received under such interim rates which are in excess of the rates, fares or charges finally determined to be just and reasonable by the commission. Interest on any such excess shall commence as of the date that any rate, fare, or charge goes into effect which results in any such excess and shall continue to accrue on the balance of any such excess until returned.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may within twenty-one days after receipt object to the sufficiency of any application and the commission shall hear and determine any such objection within twenty-one days after the same is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant

to submit an amended application consistent with its findings and the nine-month period shall not commence until the amended application is filed.”

SECTION 2. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

ACT 290

H.B. NO. 1422

A Bill for an Act Relating to Processed Milk.

Be It Enacted by the Legislature of the State of Hawaii:

The purpose of this Act is to set a ten-day maximum shelf life of fluid processed milk and to require milk processors to mark their milk cartons with the date after which the milk may not be sold.

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Milk; storage, shelf life, and dating requirements. (a) No fluid processed milk shall be offered for sale unless the milk is cooled to, packaged, and stored at a temperature of not more than 45 degrees Fahrenheit before it is purchased by or delivered to the consumer.

(b) Every container of fluid processed milk held in retail and wholesale stores, restaurants, schools, or similar establishments for resale shall be conspicuously and legibly marked with the designation of the month and day of the month after which the milk shall not be sold or offered for sale for human consumption. The designation may be numerical, such as “8- 15”, or may use an abbreviation for the month, such as “AUG 15” or “AU 15”. The designation of the date shall be preceded by the words “Sell by” or “Not to be sold after”, or the statement on the container “Not to be sold after the date stamped above” shall appear legibly on the container. The designation date shall not exceed ten days beginning after midnight on the day on which the fluid milk was processed.

(c) No fluid processed milk shall be sold after the date designated on the container.

(d) All dairy products that are sterilized, ultra-pasteurized, cultured, or packaged in a hermetically sealed container are exempt from coverage by this section.

(e) For the purposes of this section:

“Hermetically sealed container” means a container that is designed and intended to secure against the entry of microorganisms and thereby maintain the commercial sterility of its contents after processing.

“Ultra-pasteurized” means thermally processed at or above 280 degrees Fahrenheit for at least two seconds, either before or after packaging so as to produce a product that has an extended shelf life under refrigerated conditions.

(f) The director of health, upon discovery of scientific data which shall include microbiological and organoleptical methods indicating that shelf life could be lengthened or shortened in the interest of public health, may specify another “sell by” date, but in no event shall such “sell by” date, exceed twelve days.

(g) Whoever violates any provision of this section or rules adopted by the director of health pursuant thereto shall be fined not less than \$5 nor more than \$100.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 291

H.B. NO. 2275-84

A Bill for an Act Relating to Motor Vehicle Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 291 of the Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§291- Regulation of bumper height. Maximum bumper heights of motor vehicles shall be determined by the weight category of gross vehicle weight rating (GVWR) as measured from a level surface to the highest point on the bottom of the bumper. Maximum heights are as follows:

Gross Vehicle Weight Rating	Front	Rear
4,500 lbs. and under	22 inches	22 inches
4,501 lbs. to 7,500 lbs.	24 inches	26 inches
7,501 lbs. to 10,000 lbs.	28 inches	30 inches

For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer’s design to conform with the maximum bumper height requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail where the original bumper brackets were installed. This section shall not apply to

motor vehicles which, at manufacture, have a bumper height in excess of that provided in this section. "Bumper", for purposes of this section means a horizontal load bearing protective system installed on a motor vehicle which is constructed of sturdy materials that will not shatter or split upon moderate impact and provide adequate protection against damages to the front and rear external lighting and reflective devices, hood, trunk, doors, painted surfaces, cooling system, exhaust system, and other components during a low speed impact."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 1985.

(Approved June 12, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.

Proposed Constitutional Amendments

S.B. NO. 2072-84

A Bill for an Act Proposing an Amendment to Article III, Section 9, of the Hawaii Constitution, to Provide for the Method of Payment of Legislative Salaries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose an amendment to Article III, section 9, of the Constitution of the State of Hawaii to provide that the annual legislative salary, which is determined by the commission on legislative salary, shall be payable in the installments and at such times as are provided by law. The current legislative salary plan, adopted by the 1978 commission on legislative salary, provides that over seventy-five percent of the annual legislative salary be paid during February, March and April, and the balance be paid in equal installments over the other nine months. The legislature finds that this method of payment results in a disproportionately large amount of tax being deducted from the salaries during legislative session months relative to the total annual salary. The legislature also finds that the small amounts paid in nonlegislative session months might serve to place a legislator with little or no income other than the legislative salary in the incongruous position of being qualified for public assistance. The legislature finds neither of these results desirable.

This Act is not an attempt to change the authority granted to the commission on legislative salary to determine the annual salary, but would permit a more equitable scheduling of payments to be determined by law.

SECTION 2. Article III, Section 9, of the Constitution of the State of Hawaii is amended to read as follows:

“SALARY; ALLOWANCES; COMMISSION ON LEGISLATIVE SALARY

Section 9. The members of the legislature shall receive allowances reasonably related to expenses as provided by law, and a salary prescribed by the commission on legislative salary pursuant to this section[.] which shall be payable in such installments and at such times as provided by law.

There shall be a commission on legislative salary, which shall be appointed by the governor on or before November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit

PROPOSED CONSTITUTIONAL AMENDMENTS

to the legislature and the governor recommendations for a salary [plan] for members of the legislature, and then dissolve. The recommended salary [plan] submitted shall become effective as provided in the [plan] recommendation unless the legislature disapproves the [plan] recommendation by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the [plan] recommendation is submitted or the governor disapproves the [plan] recommendation by a message of disapproval transmitted to the legislature prior to such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted."

SECTION 3. Constitutional material to be repealed is bracketed. New material is underscored.

SECTION 4. This amendment shall shall take effect upon compliance with Article XVII, Section 3, of the Constitution of the State of Hawaii.

H.B. NO. 1213

A Bill for an Act Proposing the Repeal of Article VII, Section 6, of the Hawaii Constitution, to Eliminate the Requirement that Excess Revenue be Refunded to Taxpayers Under Certain Conditions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose the repeal of Article VII, section 6, of the Constitution of the State of Hawaii to eliminate the requirement that excess revenues be returned to taxpayers if the general fund balance at the close of each two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years.

SECTION 2. Article VII, section 6, of the Constitution of the State of Hawaii is repealed:

SECTION 3. Constitutional material to be repealed is bracketed.

SECTION 4. This repeal shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

H.B. NO. 1947-84

A Bill for an Act Proposing an Amendment to Article III, Section 12, of the Hawaii Constitution, to Allow Greater Flexibility in Scheduling the Deadline for Introducing Bills.

Be It Enacted by the Legislature of the State of Hawaii:

PROPOSED CONSTITUTIONAL AMENDMENTS

SECTION 1. The purpose of this Act is to propose an amendment to Article III, Section 12, of the Constitution of the State of Hawaii to allow the legislature to establish the deadline for introducing bills to be considered in the regular session prior to the twentieth day of the session.

SECTION 2. Article III, Section 12, of the Constitution of the State of Hawaii is amended to read as follows:

“ORGANIZATION; DISCIPLINE; RULES; PROCEDURE

Section 12. Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

Twenty days after a bill has been referred to a committee in either house, the bill may be recalled from such committee by the affirmative vote of one-third of the members to which such house is entitled.

Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. [This date shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess of not less than five days as provided in section 10 of this article.]”

SECTION 3. Constitutional material to be repealed is bracketed.

SECTION 4. This amendment shall take effect upon compliance with Article XVII, Section 3, of the Constitution of the State of Hawaii.

H.B. NO. 1948-84

A Bill for an Act Proposing an Amendment to Article III, Section 10, of the Hawaii Constitution to Allow Flexibility in Scheduling the Mandatory Recess.

Be It Enacted by the Legislature of the State of Hawaii:

PROPOSED CONSTITUTIONAL AMENDMENTS

SECTION 1. The purpose of this Act is to propose an amendment to Article III, section 10, of the Constitution of the State of Hawaii to allow the legislative recess to be split into two or more parts and allow the recess to occur at any time after the deadline for the introduction of bills.

SECTION 2. Article III, section 10, of the Constitution of the State of Hawaii is amended to read as follows:

“SESSIONS

Section 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. At the written request of two-thirds of the members of the senate, the president of the senate shall convene the senate in special session for the purpose of carrying out its responsibility established by Section 3 of Article VI. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for a total of not less than five days [at some period between the twentieth and fortieth days of the regular session.] after the date by which all bills to be considered in a regular session shall be introduced. The legislature shall determine the dates of the mandatory recess by concurrent resolution[.] adopted by a majority vote of the members to which each house is entitled. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.”

SECTION 3. Constitutional material to be repealed is bracketed. New material is underscored.

SECTION 4. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

First Special Session 1984

ACT 1

H.B. NO. 1-84

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this bill is to reenact the Hawaii liquor tax law to remove any doubt as to whether or not the United States Supreme Court has invalidated in its entirety HRS chapter 244 in the decision rendered in the appeal of Bacchus Imports, Ltd., et al. v. Dias, _____ U.S. _____, Sup. Ct. No. 82-1565, decided June 29, 1984. It is the declared intention of the Hawaii State Legislature to continue in force all of the provisions of chapter 244, the Hawaii Liquor Tax Law, as though the law was enacted without the exemptions accorded to okolehao, fruit wine and rum manufactured in the State. All of the remaining provisions of the Hawaii Revised Statutes which refer to, or may be affected by, chapter 244 shall remain in force and become a part of the administration of this Act.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

“CHAPTER LIQUOR TAX LAW

- Sec.-1 DEFINITIONS
- 2 PERMIT
- 3 COOPERATION BETWEEN DEPARTMENT AND LIQUOR COMMISSION
- 4 TAX; LIMITATIONS
- 5 STATEMENT OF TAX AS SEPARATE PART OF PRICE
- 6 RETURN, FORM, CONTENTS
- 7 PAYMENT OF TAX; PENALTIES
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§ -1 **Definitions.** Wherever used in this chapter, unless the context otherwise requires:

“Liquor commission” means the liquor commission of each county.

“Liquor law” means chapter 281.

“Liquor” and “licensed premises” shall have the same meanings as such words have as used in the liquor law.

“Dealer” means the holder of a manufacturer’s license, or a wholesaler’s license, under the liquor law.

“Permittee” means the holder of a permit provided for in section -2.

“Person” means an individual, partnership, society, unincorporated association, joint adventure, group, hui, joint stock company, corporation, trustee, or other fiduciary, or other entity.

“Wholesale price” means the total amount for which liquor is sold by a dealer, valued in money, whether or not paid, and without any deduction for cash discounts, but the amount of tax imposed by this chapter, whether or not separately charged and collected, shall be deducted in determining the wholesale price. In the case of a sale not made at wholesale, or not made by a dealer, or if the tax is upon the use, the wholesale price shall be deemed to be the average price of sales to retail dealers of like liquor, made by the taxpayer during the month preceding the accrual of the tax, or if no such sales were made during the month by the taxpayer, the average price of sales to retail dealers of like liquor made by permittees in the same county during the month preceding the accrual of the tax.

“Sale” means any transfer of title or possession, or both, exchange or barter, in any manner or by any means whatsoever, for a consideration.

“Use” means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property.

§ -2 **Permit.** (a) It shall be unlawful for any dealer to sell liquor unless a permit has been issued to him as hereinafter prescribed, and such permit is in full force and effect.

(b) The liquor commission shall certify to the department of taxation from time to time and within forty-eight hours after such license is issued the name of every dealer, together with his place of business and the period covered by his license. The department thereupon shall issue its permit to such person for the period covered by his license upon the payment of a permit fee of \$2.50. The permit shall be issued by the department as of the date when the liquor commission issued the license.

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(c) Any permit issued under this chapter shall not be assignable; it shall be conspicuously displayed on the licensed premises of the permittee; it shall expire on June 30 next succeeding the date upon which it is issued, unless sooner suspended, surrendered, or revoked for cause by the department; and it shall be renewed annually before July 1, upon fulfillment of all requirements as in the case of an original permit and the payment of a renewal fee of \$2.50. Whenever a permit is defaced, destroyed, or lost, or the licensed premises are relocated, the department may issue a duplicate permit to the permittee upon the payment of a fee of 50 cents.

(d) The department may suspend, or, after hearing, revoke, any permit issued under this chapter whenever it finds that the permittee has failed to comply with this chapter, or any rule or regulation of the department prescribed, adopted, and promulgated under this chapter. Upon suspending or revoking any permit the department shall request the permittee to surrender to it immediately the permit, or any duplicate thereof issued to him, and the permittee shall surrender the same promptly to the department as requested. Whenever the department suspends a permit, it shall notify the permittee immediately and afford him a hearing, if desired, and if a hearing has not already been afforded. After the hearing the department shall either rescind its order of suspension, or good cause appearing therefor, shall continue the suspension or revoke the permit.

§ -3 Cooperation between department and liquor commission. The department of taxation shall notify the proper liquor commission of the name and address of every permittee whose permit has been revoked, and any license issued to the permittee under the liquor law thereupon shall be deemed forfeited.

The department may notify the proper liquor commission of the name and address of every person who has failed to file any return required, or to pay any tax prescribed, or to secure a permit, or to perform any other duty or act imposed under this chapter, and such liquor commission shall thereupon suspend any license which may have been issued to any such person under the liquor law until such time as such person complies with this chapter.

The liquor commission shall, upon request, furnish to the department any information in its possession relative to any person having a license issued by it, and its records shall be open to the examination of the department.

§ -4 Tax; limitations. Every person who sells or uses any liquor not taxable under this chapter in respect of the transaction by which such person or his vendor acquired such liquor, shall pay an excise tax which is hereby imposed, equal to twenty per cent of the wholesale price of the liquor so sold or used; provided that the tax shall be paid only once upon the same liquor; provided further that the tax shall not apply to:

- (1) Liquor held for sale by a permittee but not yet sold;
- (2) Liquor sold by one permittee to another permittee;

- (3) Liquor which is neither delivered in the State nor to be used in the State, or which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;
- (4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33;
- (5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes.

§ -5 Statement of tax separate part of price. A dealer may state the amount of the tax accruing on a sale as a separate part of the price charged by him, but shall not be required to do so; however, section 281-83 shall not apply unless the amount of the tax has been so separately stated.

§ -6 Return, form, contents. Every taxpayer shall, on or before the last day of each month, file with the department of taxation in the taxation district in which his business premises are located, or with the department in Honolulu, a return showing all sales of liquor made by him during the preceding month, showing separately the amount of the nontaxable sales, and the amount of the taxable sales, and the tax payable thereon. The return shall also show the amount of liquor used during the preceding month which is subject to tax, and the tax payable thereon. The form of return shall be prescribed by the department and shall contain such information as it may deem necessary for the proper administration of this chapter.

§ -7 Payment of tax; penalties. At the time of the filing of the return required under section -6 and within the time prescribed therefor, each taxpayer shall pay to the department of taxation the tax imposed by this chapter, required to be shown by the return.

Penalties and interest shall be added to and become a part of the tax, when and as provided by section 231-39.

§ -8 Determination of tax, additional assessments, credit, and refunds. (a) As soon as practicable after each return has been filed, the department of taxation shall cause it to be examined and shall compute and determine the amount of the tax payable thereon.

(b) If it should appear upon such examination or thereafter within five years after the filing of the return, or at any time if no return has been filed, as a result of such examination or as a result of any examination of the records of the taxpayer or of any other inquiry or investigation, that the correct amount of the tax is greater than that shown on the return, or that any tax imposed by the chapter has not been paid, an assessment of such tax may be made in the manner provided in section 235-108(b). The amount of the tax for the period covered by

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the assessment shall not be reduced below the amount determined by an assessment so made, except upon appeal or in a proceeding brought pursuant to section 40-35.

(c) If the taxpayer has paid or returned with respect to any month more than the amount determined to be the correct amount of tax for such month, the amount of the tax so returned and any assessment of tax made pursuant to the return may be reduced, and any overpayment of tax may be credited upon the tax imposed by this chapter, or at the election of the taxpayer, he not being delinquent in the payment of any taxes owing to the State, may be refunded in the manner provided in section 231-23(d); provided, that no reduction of tax may be made when forbidden by subsection (b) or more than five years after the filing of the return.

§ -9 Records to be kept. (a) Every dealer shall keep a record of all sales of liquor made by him, in such form as the department of taxation may prescribe. Every person holding a license under the liquor law, other than a manufacturer's or wholesaler's license, shall keep a record of all purchases by him of liquor, in such form as the department may prescribe. All such records shall be offered for inspection and examination at any time upon demand by the department and shall be preserved for a period of five years, except that the department may in writing consent to their destruction within such period or may require that they be kept longer.

The department may by regulation require the dealer to keep such other records as it may deem necessary for the proper enforcement of this chapter.

(b) If any dealer or any other taxpayer fails to keep records from which a proper determination of the tax due under this chapter may be made, the department may fix the amount of tax for any period from the best information obtainable by it, and assess the tax as hereinbefore provided.

§ -10 Inspection. The director of taxation, or his duly authorized agent, may examine all records required to be kept under this chapter, and books, papers, and records of any person engaged in the sale of liquor to verify the accuracy of the payment of the tax imposed by this chapter and other compliance with this chapter and regulations adopted pursuant thereto. Every person in possession of such books, papers and records and his agents and employees shall give the director or his duly authorized agent the means, facilities, and opportunities for such examination.

§ -11 Tax in addition to other taxes. The tax imposed by this chapter shall be in addition to any other tax imposed upon the business of selling liquor or upon any of the transactions, acts, or activities taxed by this chapter.

§ -12 Appeals. Any person aggrieved by any assessment of the tax imposed by this chapter may appeal from the assessment in the manner and within the time and in all other respects as provided in the case of income tax appeals by section 235-114, provided the tax so assessed shall have been paid.

The hearing and disposition of the appeal, including the distribution of costs and of taxes paid pending the appeal, shall be as provided in chapter 232.

§ -13 Other provisions applicable. All of the provisions of chapters 235 and 237 not inconsistent with this chapter and which may appropriately be applied to the taxes, persons, circumstances, and situations involved in this chapter, including (without prejudice to the generality of the foregoing) provisions as to penalties and interest, and provisions granting administrative powers to the director of taxation, and provisions for the assessment, levy, and collection of taxes, shall be applicable to the taxes imposed by this chapter, and to the assessment, levy, and collection thereof.

§ -14 Investigations; contempts; fees. The director of taxation, and any agent authorized by him to conduct any inquiry, investigation, or hearing hereunder, shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the director, the director or his agent authorized to conduct the hearing may subpoena witnesses and require the production of books, papers, and documents pertinent to the inquiry. No witness under subpoena authorized to be issued by this section shall be excused from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, but such evidence or the books or papers so produced shall not be used in any criminal proceeding against him.

Contempts. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to him by the director or his authorized agent or to produce any books and papers pursuant thereto, the director or the agent may apply to the circuit court of the circuit wherein the taxpayer resides or wherein the transaction, act, or activity under investigation has occurred, or to any judge of the court, setting forth such disobedience to process or refusal to answer, and the court or the judge shall cite the person to appear before the court or the judge to answer such question or to produce such books and papers, and, upon his refusal so to do, shall commit the person to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the director may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify.

Fees. Officers who serve subpoenas issued by the director or under his authority and witnesses attending hearings conducted by him hereunder shall receive like fees and compensation as officers and witnesses in the circuit courts of the State, to be paid on vouchers of the director, from any moneys available for litigation expenses of the department of taxation.

§ -15 Administration by director; rules and regulations. The administration of this chapter is vested in the director of taxation who may prescribe and

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enforce rules and regulations for the enforcement and administration of this chapter.

The rules and regulations shall be prescribed by the director, subject to chapter 91.

§ -16 Penalties. (a) The penalties provided by this section shall apply to any person whether acting as principal, agent, officer, or director, for himself, itself, or for another person, and shall apply to each single violation, but shall not apply to any act the punishment for which is elsewhere prescribed by this chapter.

(b) Any dealer who sells liquor without a permit as required by this chapter shall be fined not more than \$1,000.

(c) Any person who makes any false or fraudulent or false statement in any return, with intent to defraud the State or to evade the payment of any tax or any part thereof imposed by this chapter, or who in any manner intentionally deceives or attempts to deceive the director of taxation or his authorized agent in relation to any such tax shall be punished as provided in section 231-34.

(d) Any person who fails or refuses to permit the examination of any book, paper, account, record, or property by the director or his authorized agent, as required by this chapter, and any person who fails, neglects, or refuses to comply with or violates the rules and regulations prescribed, adopted, and promulgated by the director under this chapter, shall be fined not more than \$500, or imprisoned not more than six months, or both.

§ -17 Disposition of revenues. All moneys collected pursuant to this chapter shall be paid into the state treasury as state realizations, to be kept and accounted for as provided by law.

SECTION 3. Section 281-83, Hawaii Revised Statutes, is amended to read:

“§281-83 Payment of liquor tax to be made. Whenever liquor is purchased by the holder of a retail, dispenser, club, cabaret, hotel, or vessel license from the holder of a manufacturer's or wholesale license, the amount added to the price on account of the tax imposed by chapter [244] _____, as provided by section [244-5] _____-5, shall be paid by the purchaser within twenty days after the end of the month in which the purchase has been made. On the failure to make the payment within such time the liquor commission may in its discretion suspend the license of the purchaser for a period of not more than ten days for the first failure and not more than twenty days for any subsequent failure.

The holder of a manufacturer's or wholesale license shall report the failure of a purchaser to comply with this section to the commission of the county in which the purchaser holds a license, in order that the suspensions provided by this section may be enforced by the commission. Any holder of a

manufacturer's or wholesale license who fails to make such report may likewise be subject to the suspensions hereinabove provided."

SECTION 4. Section 231-1, Hawaii Revised Statutes, is amended to read:

"§231-1. **Definitions.** Whenever used in chapters 231 to 249 [and], 236D[:] and _____: ¹

"Assessor" or "assistant assessor" means the assessor or an assistant assessor appointed for the taxation district concerned. Whenever there is more than one assessor for the first district, with respect to that district "assessor" or "assistant assessor" means the assessor or assistant assessor for a particular tax.

"Comptroller" means the comptroller of the State.

"Department" means the department of taxation, unless the context clearly indicates otherwise.

"Property" or "real property" has the meaning defined by section 246-1, and, to the extent required by provisions making applicable to other chapters, this chapter, or chapters 232, 233, 235 to 239, 241 to 246, [and] 236D, and _____, also means and includes other subjects or measures of tax."

SECTION 5. Chapter 244, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 14, 1984.)

Note

1. Underscoring missing.

COMMITTEE REPORTS
ON MEASURES ENACTED AND VETOED

TABLES SHOWING EFFECT
OF ACTS

GENERAL INDEX

COMMITTEE REPORTS ON MEASURES ENACTED AND VETOED

A Compilation of Acts and Vetoed Measures,
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606-4	Am	259	846-32	Am	95
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B. SESSION LAWS OF HAWAII AFFECTED

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Laws 1978			Laws 1981 Sp		
Act 150	R	147	Act 13	Am	224
			Act 15	Am	195
Laws 1979			Laws 1982		
Act 50	Am	224	Act 62	Am	83
Act 143	Am	76	Act 128	R	147
Laws 1980			Act 139	Am	256
Act 134	R	147	Laws 1983		
Act 277	Am	183	Act 153	Am	6
Laws 1981			Act 283	Am	287
Act 105	R	147	Act 291	Am	286
			Act 300	Am	141
			Act 301	Am	285

C. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT 1920 AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
202	Am	199	213	Am	260
207	Am	27	221	Am	36
		37			

D. STATE CONSTITUTION AFFECTED

Section No.	Proposed Effect	Bill No.	Section No.	Proposed Effect	Bill No.
Art III, §9	Am	SB 2072-84	Art III, §12	Am	HB 1947-84
Art III, §10	Am	HB 1948-84	Art VII, §6	R	HB 1213

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